STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

MIKE COX
ATTORNEY GENERAL

P.O. Box 30755
LANSING, MICHIGAN 48909

July 28, 2006

Clerk of the Court
Ingham County Circuit Court
P O Box 40771
Lansing, MI 48901

Dear Clerk:

Re: *Michigan Department of Environmental Quality v Diamond Chrome Plating, Inc.*
Ingham Circuit Court Docket No. 03-1862-CE-C30
Honorable James R. Giddings

Enclosed is a PROOF OF SERVICE indicating that Mr. Mikalonis was provided with a copy of the CONSENT DECREE which was entered today.

Very truly yours,

Kathleen L. Cavanaugh
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
(517) 373-7540

KLC/pjb
Enc.
c: Saulius K. Mikalonis

S: NR/cases/2002011839B/Diamond Chrome/cl-POS consent decree

John Craig WH/MD

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL

MIKE COX
ATTORNEY GENERAL

P.O. Box 30755
LANSING, MICHIGAN 48909

July 28, 2006

Saulius K. Mikalonis
BUTZEL LONG
100 Bloomfield Hills Parkway, Ste 200
Bloomfield Hills, MI 48304

Dear Saulius:

Re: *MDEQ v Diamond Chrome Plating, Inc.*
Ingham County Circuit Court Docket No. 03-1862-CE
Honorable James R. Giddings

Enclosed is a copy of the Consent Decree which was entered on July 28, 2006.

Very truly yours,

Kathleen L. Cavanaugh
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
(517) 373-7540

KLC/pjb
cc: Rick Rusz, MDEQ

S: NR/cases/Diamond Chrome/2002011839B/ltr-mikalonis copy cd

STATE OF MICHIGAN
IN THE 30th JUDICIAL CIRCUIT COURT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,
Plaintiff,

CASE NO: 03-1862-CE

v

Honorable James R. Giddings

DIAMOND CHROME PLATING, INC.

Defendant.

/

Kathleen L. Cavanaugh (P38006)
Attorney for Plaintiff
Assistant Attorney General
Environment, Natural Resources,
and Agriculture Division
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BUTZEL LONG
100 Bloomfield Hills Parkway
Suite 200
Bloomfield Hills, MI 48304
(248) 258-1303

/

CONSENT DECREE

STATE OF MICHIGAN
IN THE 30th JUDICIAL CIRCUIT COURT
INGHAM COUNTY

MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY,
Plaintiff,

CASE NO: 03-1862-CE

v

Honorable James R. Giddings

DIAMOND CHROME PLATING, INC.,
Defendant.
_____/

PROOF OF SERVICE

On July 28, 2006, I sent by first-class mail a copy of the CONSENT DECREE to:

Saulius K. Mikalonis
BUTZEL LONG
100 Bloomfield Hills Parkway
Suite 200
Bloomfield Hills, MI 48304

I declare that the above statements are true to the best of my information, knowledge, and belief.

Patricia J. Braithwaite

S: NR/AC/cases/open/2002011839A/Diamond Chrome/POS- CD

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CONSENT DECREE

The Plaintiff is the Michigan Department of Environmental Quality (MDEQ).

The Defendant is Diamond Chrome Plating, Inc.

This Consent Decree (Decree) requires the preparation and performance of Interim Response Activities, a Supplemental Remedial Investigation, and a Remedial Action Plan (RAP) at the Diamond Chrome Plating, Inc. Facility in Livingston County, Michigan (hereafter Facility). Defendant agrees not to contest (a) the authority or jurisdiction of the Court to enter this Decree or (b) any terms or conditions set forth herein.

The entry of this Decree by Defendant is not an admission of liability with respect to any issue dealt with in this Decree nor is it an admission of any factual allegations or legal conclusions stated or implied herein.

The Parties agree, and the Court by entering this Decree finds, that the response activities and other actions set forth herein are necessary to abate the release or threatened release of hazardous substances into the environment, to control future releases, and to protect public health, safety, and welfare, and the environment.

NOW, THEREFORE, before the taking of any testimony, and without this Decree constituting an admission of any of the allegations in the Complaint or as evidence of the same, and upon the consent of the Parties, by their attorneys, it is hereby ORDERED, ADJUDGED AND DECREED:

I. JURISDICTION

1.1 This Court has jurisdiction over the subject matter of this action pursuant to MCL 324.3115; MCL 324.5530; MCL 324.11151(1) and MCL 324.20137. This Court also has

personal jurisdiction over the Defendant. Defendant waives all objections and defenses that it may have with respect to jurisdiction of the Court or to venue in this Circuit.

1.2 The Court determines that the terms and conditions of this Decree are reasonable, adequately resolve the environmental issues raised, and properly protect the interests of the people of the State of Michigan.

1.3 The Court shall retain jurisdiction over the Parties and subject matter of this action to enforce this Decree and to resolve disputes arising under this Decree, including those that may be necessary for its construction, execution or implementation, subject to Section XVI (Dispute Resolution).

II. PARTIES BOUND

2.1 This Decree shall apply to and be binding upon Plaintiff and Defendant and their successors. No change or changes in the ownership or corporate status or other legal status of the Defendant, including, but not limited to, any transfer of assets or of real or personal property, shall in any way alter Defendant's responsibilities under this Decree. Defendant shall provide the MDEQ with written notice prior to the transfer of ownership of part or all of the Facility and shall also provide a copy of this Decree to any subsequent owners or successors prior to the transfer of any ownership rights. Defendant shall comply with the requirements of Section 20116 of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.20116, and the Part 201 Administrative Rules.

2.2 Defendant shall provide a copy of this Decree to all contractors and consultants that are retained to conduct any portion of the response activities to be performed pursuant to this Decree within seven (7) calendar days of the effective date of such retention.

2.3 Notwithstanding the terms of any contract that Defendant may enter with respect to the performance of response activities pursuant to this Decree, Defendant is responsible for compliance with the terms of this Decree.

2.4 The signatories to this Decree certify that they are authorized to execute this Decree and to legally bind the Parties they represent.

III. STATEMENT OF PURPOSE

In entering into this Decree, the mutual intent of Plaintiff and Defendant is to:

(a) conduct additional remedial investigation activities to determine the nature and extent of any releases of hazardous substances or hazardous wastes and any threat to the public health, safety, or welfare, or the environment caused by the release or threatened release of hazardous substances or hazardous waste from the Facility and to support the selection of appropriate response activity for the Facility;

(b) evaluate and perform interim response activities;

(c) develop and submit to the MDEQ, for review and approval, a Remedial Action Plan that complies with Part 201;

(d) perform the MDEQ-approved Remedial Action Plan in accordance with its approved implementation schedule;

(e) reimburse the State for Past and Future Response Activity Costs and costs of surveillance and enforcement as described in Section XIV (Reimbursement of Costs and Payment of Civil Penalties);

(f) resolve compliance issues under Parts 31, 55, 111 and 201;

(g) resolve the State's claims for civil fines for Past Violations under Part 31, 55, 111 and 201; and

(h) minimize litigation.

IV. DEFINITIONS

4.1 "AQD" means the Air Quality Division of the MDEQ.

4.2 "Day" or "day" means a calendar day, unless otherwise specified in this Decree.

4.3 "Decree" means this Consent Decree and any attachment hereto, including any future modifications, and any reports, plans, specifications and schedules required by the Consent Decree which, upon approval of the MDEQ, shall be incorporated into and become an enforceable part of this Consent Decree.

4.4 "Defendant" means Diamond Chrome Plating, Inc. and its successors. Diamond Chrome is a Connecticut corporation authorized to do business in Michigan.

4.5 "Effective Date" means the date that the Court enters this Decree. All dates for the performance of obligations under this Decree shall be calculated from the Effective Date.

4.6 "Facility" means any area of the Property identified in Attachment A where a hazardous substance, in concentrations that exceed the requirements of Section 20120a(1)(a) or

(17), of the NREPA, MCL 324.20120a(1)(a) or (17); or the cleanup criteria for unrestricted residential use under Part 213, Leaking Underground Storage Tanks, of the NREPA, has been released, deposited, or disposed of, or otherwise comes to be located; and any other area, place, or property where a hazardous substance, in concentrations that exceed these requirements or criteria, has come to be located as a result of the migration of the hazardous substance from the Property.

4.7 "Future Response Activity Costs" means costs incurred by the State to oversee, enforce, monitor, and document compliance with this Decree and to perform response activities required by this Decree, including, but not limited to, costs incurred to: monitor response activities at the Facility; observe and comment on field activities; review and comment on Submissions; collect and evaluate samples; purchase equipment and supplies to perform monitoring activities; attend and participate in meetings; prepare cost reimbursement documentation; and perform response activities pursuant to Section IX (Emergency Response) and Paragraph 6.13 (MDEQ's Performance of Response Activities).

4.8 "Hazardous Waste(s)" is defined as set forth in Part 111 of the NREPA and the Part 111 rules.

4.9 "MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those authorized persons or entities acting on its behalf.

4.10 "Part 201" means Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.20101 *et seq*, and the Administrative Rules promulgated thereunder.

4.11 "Party" means the Plaintiff or Defendant. "Parties" means the Plaintiff and Defendant.

4.12 "Past Response Activity Costs" means response activity costs that the State incurred and paid prior to March 18, 2005.

4.13 "Past Surveillance and Enforcement Costs" means the past costs incurred prior to March 18, 2005, by WHMD, AQD, and WB.

4.14 "Past Violations of Parts 31, 55, 111 and 201" means any alleged violations of Part 31, 55, 111 and 201, as set forth in the Complaint, that occurred prior to March 18, 2005 and that were known to the WB, AQD, RRD, or WHMD.

4.15 "Plaintiff" means the Michigan Department of Environmental Quality, its successor entities, and those authorized persons or entities acting on its behalf.

4.16 "Property" means the property located at 604 South Michigan Avenue, Howell, Michigan 48843, and described in the legal description provided in Attachment A.

4.17 "Remedial Action Plan" or "RAP" means a plan for the Facility that satisfies the requirements of Part 201 of the NREPA, including, but not limited to, Sections 20118, 20120a, 20120b and 20120d, and the Part 201 Administrative Rules.

4.18 "RRD" means the Remediation and Redevelopment Division of the MDEQ and its successor entities.

4.19 "State" and "State of Michigan" means the Michigan Department of Attorney General (MDAG) and the Michigan Department of Environmental Quality, and any authorized representatives acting on their behalf.

4.20 "Submissions" means all plans, reports, schedules, and other submittals that Defendant is required to submit to the State pursuant to this Decree. "Submissions" does not include the notifications set forth in Section X (Delays in Performance, Violations, and *Force Majeure*).

4.21 "WB" means the Water Bureau of the MDEQ.

4.22 "WHMD" means the Waste and Hazardous Materials Division of the MDEQ.

4.23 Unless otherwise stated herein, all other terms used in this document, which are defined in Part 3 of the NREPA, MCL 324.301, Part 201 of the NREPA, MCL 324.20101, *et seq*, or the Part 201 Administrative Rules, 1990 AACS R 299.5101, *et seq*, shall have the same meaning in this document as in Parts 3 and 201 of the NREPA and the Part 201 Administrative Rules.

V. COMPLIANCE WITH STATE AND FEDERAL LAWS

5.1 All actions required to be taken pursuant to this Decree shall be undertaken in accordance with the requirements of all applicable or relevant and appropriate state and federal laws, rules, and regulations, including, but not limited to, Part 201 and its rules, Part 31 and its rules, Part 55 and its rules, and Part 111 and its rules. Other agencies may also be called upon to review the performance of response activities under this Decree.

5.2 On and after the Effective Date of this Decree Defendant shall comply with the following requirements of Part 111 and undertake the actions set forth herein in accordance with the specified schedule:

(a) continue to properly characterize wastes generated at the facility in accordance with R 299.9302(1);

(b) continue to properly accumulate hazardous wastes in containers or tanks in accordance with R 299.9306(1)(a);

(c) continue to properly accumulate hazardous wastes in accordance with R 299.9306(1)(f);

(d) continue to provide annual training updates to all personnel that handle hazardous waste, and keep all training records on-site in accordance with R 299.9306(1)(d) and 40 CFR 265.16;

(e) continue to maintain sufficient aisle space in hazardous waste storage areas in accordance with R 299.9306(1)(d) and 40 CFR 265.35; and

(f) continue to maintain a contingency plan that complies with R 299.9306(1)(d) and 40 CFR 265.52.

(g) Within thirty (30) days of the Effective Date of this Consent Decree, Defendant shall submit to the WHMD Project Coordinator for review and approval, a Standard Operating Plan for Hazardous Wastes (Hazardous Wastes SOP) that describes procedures Defendant shall implement to prevent the release of hazardous wastes from production process units, including potential releases from the plating tank containment pits, and F006 filter cake sludge releases to the truck well area. Upon receipt of written

approval of the Hazardous Wastes SOP, Defendant shall implement the plan in accordance with the schedule contained therein.

5.3 On and after the Effective Date of this Decree Defendant shall comply with the following requirements of Part 55 and undertake the actions set forth herein in accordance with the specified schedule:

(a) Defendant shall comply with Special Conditions Nos. 16, 17, and 18 and General Conditions Nos. 4 and 5 of Permit to Install No. 367-83B, which is attached as Attachment B.

(b) Defendant shall comply with Special Conditions Nos. 14, 15, 16, 17, and 18, and General Conditions Nos. 1, 8, and 10 of Permit to Install No. 386-85A, which is attached as Attachment C.

(c) Defendant shall not operate the chrome plating processes covered under Permits to Install No. 367-83B and 386-85A unless the pollution control equipment is operating properly.

(d) Defendant shall comply with the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions From Hard and Decorative Electroplating and Chromium Anodizing Tanks as specified in Title 40 of the Code of Federal Regulations, Part 63 (40 CFR Part 63), Subparts A and N (chrome NESHAP).

(e) Defendant shall comply with the Air Standard Operating Procedure Revision E, dated March 12, 2003, and the requirements specified in MDEQ's December 14, 2005 letter. Within 30 days of the Effective Date of this Decree, Defendant shall

submit a Standard Operating Procedure Revision F to MDEQ, for review and approval, incorporating the necessary revisions set forth in MDEQ's December 14, 2005 letter.

(f) In the event that MDEQ observes chromic acid leaks from the air pollution control system on three occasions that have not been documented or repaired in accordance with 5.3(e), Defendant shall, within 14 days of written notification by MDEQ, submit a work plan and schedule to MDEQ, for review and approval, for total enclosure of the air pollution system. If Defendant can demonstrate to MDEQ that other alternative technology or equipment upgrades will prevent leaks from the air pollution control equipment, the work plan may include such a demonstration and a work plan for implementation of the alternative. Upon MDEQ approval of the plan and demonstration, Defendant shall implement the plan in accordance with the approved schedule.

5.4 On and after the Effective Date of this Decree Defendant shall comply with the following requirements of Part 31 and undertake the actions set forth herein in accordance with the specified schedule:

(a) Defendant shall abide by all the terms and conditions of the Certificate of Coverage and the General Permit for Industrial Storm Water Discharges until an individual permit is issued as set forth in Paragraph 5.4(c). This includes, but is not limited to, the continued designation of a certified storm water operator and full implementation of the Storm Water Pollution Prevention Plan (SWPPP) for the facility. If Defendant fails to comply with the prohibition on discharging stormwater that exceeds water quality standards, Defendant shall, within thirty (30) days after a written request from the MDEQ, submit to the MDEQ, for review and approval, a Pollutant

Minimization Plan. Upon approval of the Plan, Defendant shall implement the Plan in accordance with the approved schedule.

(b) Defendant shall revise the SWPPP on a regular basis whenever new significant materials and/or pollutant sources, including disturbed or exposed soils, will be present on the site in order to prevent further releases of contaminated storm water to surface waters of the state. Each SWPPP revision shall be mailed to the WB Project Coordinator for MDEQ review and approval.

(c) Within sixty (60) days of the Effective Date of this Decree, Defendant shall either submit a complete application for an individual NPDES permit (as required at 1995 AACS R 323.2191(3)) for discharges of contaminated storm water and/or other wastewaters to the waters of the State or provide documentation that all wastewater, including recovered storm water and groundwater, will be accepted by, and discharged to, the City of Howell Wastewater Treatment Plant or hauled offsite for proper disposal. Should Defendant choose to divert a portion of its wastewaters to the City of Howell Wastewater Treatment Plant, while discharging a portion of its wastewaters to the City of Howell storm sewer, an application shall still be made for an individual NPDES permit.

(d) Defendant shall continue to sample stormwater according to the protocol contained in the Final Revised Storm Water Interceptor Tank Sampling Plan approved by MDEQ on July 15, 2003. Within thirty (30) days of the Effective Date of this Decree, Defendant shall submit the results of any samples of stormwater taken prior to entry of this Decree to the WB Project Manager.

(e) Defendant shall obtain appropriate permits for disposal of any waste water, including contaminated storm water and groundwater.

VI. PERFORMANCE OF RESPONSE ACTIVITIES

6.1 Performance Objectives

Defendant shall perform all necessary response activities at the Facility to comply with the requirements of Parts 31 and 201, including, but not limited to, the response activities required to meet the performance objectives outlined in this Decree, as follows:

(a) To the extent that Defendant is the owner of part or all of the Facility, Defendant shall achieve and maintain compliance with Section 20107a(1)(a) through (c) of the NREPA and Rules 299.51001 to 299.51021.

(b) Defendant shall implement the interim response activities set forth in Paragraph 6.6 to meet the following performance objectives:

(i) confirm, through monitoring, that the interim response activities of leak proofing the storm sewer has ceased the infiltration of groundwater exceeding groundwater surface water interface (GSI) criteria into the storm sewer, and if monitoring does not confirm that the infiltration above GSI has ceased, to undertake additional response activities to cease such infiltration;

(ii) cease the infiltration of groundwater exceeding GSI criteria into the sanitary sewers, if such infiltration is occurring;

(iii) evaluate and implementing appropriate source control or removal measures in compliance with Part 201;

(iv) provide documentation to demonstrate compliance with all the applicable requirements of the Part 201.

(c) Defendant shall perform a supplemental remedial investigation (RI). The performance objectives of the RI are to assess Facility conditions in order to select an

appropriate remedial action that adequately addresses those conditions prescribed in Part 201 and the Part 201 Administrative Rules. This includes determining the full nature, extent, and impact of hazardous substances, including all suspected sources of contamination, and any threat to the public health, safety, or welfare, or the environment caused by the release or threatened release of hazardous substances at the Facility in order to evaluate the relevant exposure pathways in accordance with Part 201 and to support the MDEQ's approval of a RAP utilizing the selection of appropriate criteria and response activity for the Facility.

(d) Defendant shall perform remedial action as approved in an MDEQ-approved Remedial Action Plan (RAP). The performance objectives of the RAP are to:

(i) meet and maintain compliance with the appropriate cleanup criteria established under Section 20120a(1)(b) through (j) or 20120a(2), and Sections 20120a(15) and (17) of the NREPA, and comply with all applicable technical and administrative requirements of Sections 20118, 20120a, 20120b, and 20120d of the NREPA, and the Part 201 Administrative Rules at the Facility; and

(ii) allow for the continued use of the Facility consistent with local zoning.

6.2 In accordance with this Decree, Defendant shall assure that all work plans for conducting response activities are designed to achieve the performance objectives identified in Paragraph 6.1. Defendant shall develop each work plan and perform the response activities contained in each work plan in accordance with the requirements of Part 201 and this Decree. These work plans shall provide for ten (10) days notice to the RRD project coordinator prior to

performance of site field work. Upon MDEQ approval, each component of each work plan and any approved modifications shall be deemed incorporated into this Decree and made an enforceable part of this Decree. If there is a conflict between the requirements of this Decree and any MDEQ-approved work plan, the requirements of this Decree shall prevail unless the Parties agree to modify the Consent Decree in accordance with Section XXII (Modifications).

6.3 Quality Assurance Project Plan (QAPP)

Within thirty (30) days of the Effective Date of this Decree, Defendant shall submit to the MDEQ for review and approval a QAPP, which describes the quality control, quality assurance, sampling protocol and chain of custody procedures that will be used in carrying out the tasks required by this Decree. The QAPP shall be developed in accordance with the United States Environmental Protection Agency's (USEPA or EPA) "EPA Requirements for Quality Assurance Project Plans", EPA QA/R-5, March 2001; "Guidance for Quality Assurance Project Plans", EPA QA/G-5, December 2002; and American National Standard ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs." Defendant shall utilize MDEQ approved sampling methods and analytical methods and analytical detection levels specified in "Operational Memorandum No. 2, Sampling and Analysis Guidance, dated October 22, 2004, which became effective on February 2, 2005. Defendant shall utilize the MDEQ 2002 Sampling Strategies and Statistics Training Materials for Part 201 Cleanup Criteria (S3TM) to determine the number of samples collected for the purposes of verifying the cleanup. Defendant shall comply with the above documents or documents that supercede or amend these documents, and may utilize other methods demonstrated by Defendant to be appropriate as approved by the MDEQ.

6.4 Health and Safety Plan (HASP)

Within thirty (30) days of the Effective Date of this Decree, Defendant shall submit to the MDEQ a HASP that is developed in accordance with the standards promulgated pursuant to the National Contingency Plan, 40 CFR 300.150, the Occupational Safety and Health Act of 1970, 29 CFR 1910.120, and the Michigan Occupational Safety and Health Act. The HASP is not subject to the MDEQ's approval under Section XIII (Submissions and Approvals) of this Decree.

6.5 Documentation of Compliance with Section 20107a of the NREPA

On July 14, 2005 Defendant submitted a plan to MDEQ entitled Documentation of Compliance with Section 20107a of Part 201 of Michigan Act 451 Pursuant to Administrative Rule 1003(5). Defendant shall continue to maintain, update as necessary, and upon the MDEQ's request, submit documentation to the MDEQ for review and approval that summarizes the actions Defendant has taken or is taking to comply with Section 20107a(1)(a)-(c) of the NREPA and the related Part 201 Rules. Failure of Defendant to comply with the requirements of this paragraph, Section 20107a of the NREPA, or the Part 201 Rules shall constitute a violation of this Decree and shall be subject to the provisions of Section XV (Stipulated Penalties) of this Decree.

6.6 Defendant shall submit plans and perform the following interim response activities:

(a) Within twenty (20) days of the Effective Date of this Decree Defendant shall submit a revised Source Evaluation Work Plan addressing all comments made by MDEQ in the June 5, 2006 correspondence from MDEQ. Upon approval of the Plan Defendant shall implement the Plan in accordance with the approved schedule.

(b) Within thirty (30) days after MDEQ's approval of the final report submitted pursuant to the Source Evaluation Work Plan, as set forth in Paragraph 6.6(a), but in no event prior to September 1, 2006, Defendant shall, submit a work plan for Delineation of Source Areas. Upon approval of the plan, Defendant shall implement the Plan in accordance with the approved schedule.

(c) By January 30, 2007, if the work undertaken pursuant to Paragraphs 6.6(a) and (b), indicates that source areas need to be addressed by Defendant as required by Part 201, Defendant shall submit a plan and schedule to MDEQ for source control. The plan shall include interim response activities to cease infiltration of groundwater above GSI criteria into the sanitary sewer, if required by Part 201. Upon approval of the Plan, Defendant shall implement the Plan in accordance with the approved schedule.

(d) On April 28, 2006 Defendant submitted a revised Catch Basin Monitoring Plan that was to address all comments made by MDEQ in correspondence dated March 22, 2006. MDEQ reviewed the submittal and determined that it did not address all of the comments set forth in MDEQ's March 22, 2006 letter. On May 9, 2006 MDEQ commented on the revised Catch Basin Monitoring Plan. By May 31, 2006 Defendant shall submit a revised Catch Basin Monitoring Plan to MDEQ for review and approval in accordance with Section XII (Submissions and Approvals). If the results of monitoring from the Catch Basin Monitoring Plan show that contaminated groundwater is still entering the storm sewer above the applicable GSI criteria developed pursuant to Part 201, Defendant shall within 30 days after notification by MDEQ, submit a Contingency Monitoring Plan, including a schedule, to MDEQ for review and approval, for installation of monitoring wells to determine where infiltration is occurring. The Contingency

Monitoring Plan shall contain a schedule for implementation of additional interim response activities to cease the infiltration of groundwater into the storm sewer above the applicable GSI criteria. This paragraph supersedes the Stipulation and Order for Interim Response Activities entered by the Court October 27, 2005 and amended on March 2, 2006. The Stipulation and Order for Interim Response Activities dated October 27, 2005 and amended on March 2, 2006 is null and void.

(e) Each work plan shall include:

(i) A detailed description of the specific work tasks that will be conducted pursuant to the work plan and a description of how these work tasks will meet the performance objectives described in Paragraph 6.1. The factors specified in the Part 201 Administrative Rules shall be considered in the development of the work plan.

(ii) A description of how the proposed interim response activities will be consistent with the RAP that is anticipated to be selected for the Facility.

(iii) Implementation schedules for conducting the response activities.

(iv) A plan for obtaining access to any properties not owned or controlled by Defendant that is needed to perform the response activities contained in the work plan.

(v) A description of the nature and amount of waste materials expected to be generated during the performance of response activities and the name and location of the facilities Defendant proposes to use for the off-site transfer, storage, treatment, or disposal of those waste materials.

6.7 Supplemental Remedial Investigation (RI)

(a) Sixty (60) days after MDEQ's approval of the work plans referenced in Paragraph6.6 (b), Defendant shall submit to the MDEQ, for review and approval, a work plan for completing the RI, which shall be of sufficient scope to support the selection of a remedial action that complies with Part 201. In the alternative, Defendant may submit a RI report to MDEQ, incorporating all prior evaluations conducted at the facility, if such activities are sufficient to support the selection of a remedial action that complies with Part 201. The RI work plan shall provide for the following:

(i) A detailed description of the specific work tasks that will be conducted pursuant to the work plan and a description of how these work tasks will meet the performance objectives described in Paragraph 6.1(c). The factors specified in the Part 201 Administrative Rules shall be considered in the development of the work plan.

(ii) A description of the history and nature of operations at the Facility and a summary of any existing information regarding the physical characteristics of the site.

(iii) Implementation schedules for conducting the response activities and submission of a final report.

(iv) A plan for obtaining access to any properties not owned or controlled by Defendant that is needed to perform the response activities contained in the work plan.

(v) A description of the nature and amount of waste materials expected to be generated during the performance of response activities and the name and

location of the facilities Defendant proposes to use for the off-site transfer, storage, treatment, or disposal of those waste materials.

(b) Within thirty (30) days of receiving the MDEQ's approval of the RI work plan, Defendant shall initiate the response activities contained in the RI work plan and submit an RI report in accordance with the approved implementation schedule.

6.8 Remedial Action Plan (RAP)

(a) Within one hundred twenty (120) days of receiving MDEQ approval of the RI report, Defendant shall submit a RAP to the MDEQ for review and approval. The RAP shall provide for the following:

(i) All technical and administrative components required by Sections 20118, 20120a, 20120b, and 20120d of the NREPA and the Part 201 Administrative Rules.

(ii) A detailed description of the specific work tasks to be conducted pursuant to a RAP work plan, a description of how these work tasks will meet the performance objectives described in Paragraph 6.1(d), and a description and supporting documentation of how the results of the remedial investigation or other response activities that have been performed at the Facility support the selection of the appropriate cleanup criteria and the remedial action contained in the RAP.

(iii) Implementation schedules for conducting the response activities and for submission of a final report.

(iv) A plan for obtaining access to any properties not owned or controlled by Defendant that is needed to perform the response activities

contained in the RAP. If Defendant proposes to perform a RAP that relies on the cleanup criteria established under Section 20120a(1)(b)-(j) or (2) of the NREPA and that RAP provides for land and resource use restrictions, monitoring, operation and maintenance, or permanent markers as prescribed by Section 20120b(3)(a) through (d), the RAP shall include documentation from property owners, easement holders, or local units of government that the necessary access to these properties has been or will be obtained and that any proposed land or resource use restrictions can or will be placed or enacted.

(v) A description of the nature and amount of waste materials expected to be generated during the performance of response activities and a description of how these waste materials will be stored and disposed of.

(vi) Identification of the conditions, including the performance standards, that may be used to void or nullify the MDEQ's approval of the RAP, pursuant to Paragraph 6.12.

(b) Within thirty (30) days of receiving the MDEQ's approval of the RAP, Defendant shall commence performance of the RAP in accordance with the schedule in the MDEQ-approved RAP. All technical and administrative requirements submitted to the MDEQ, which in combination constitute an MDEQ-approved RAP, shall become incorporated into this Decree, and become an enforceable part of this Decree.

(c) If Defendant chooses to perform a RAP that relies on the cleanup criteria established under Section 20120a(1)(f) through (j) or (2) of the NREPA and a Financial Assurance Mechanism (FAM) is a necessary component of that RAP, Defendant shall establish and maintain financial assurance that will assure Defendant's ability to pay for

monitoring, operation and maintenance, oversight, and other costs (collectively referred to as "O&M Costs") that are determined by the MDEQ to be necessary to assure the effectiveness and integrity of the remedial action as set forth in the MDEQ-approved RAP. The cost of activities covered by the FAM shall be documented on the basis of an annual estimate of maximum costs for the activity as if they were to be conducted by a person under contract to the state; and not based on estimates as if the activities were being conducted by employees of Defendant. The proposed FAM shall be submitted to the MDEQ as part of the RAP pursuant to Paragraph 6.8(a) and shall be in an amount sufficient to cover O&M Costs at the Facility for the initial thirty (30)-year period. If a FAM is a component of the MDEQ-approved RAP, every five (5) years after the MDEQ's initial approval of the FAM, Defendant shall provide to the MDEQ an update of the thirty (30)-year O&M Costs estimate. The updated cost estimate shall include documentation of O&M Costs for the previous five-year period and be signed by an authorized representative of Defendant who shall confirm the validity of the data. Defendant shall revise the amount of funds secured by the FAM in accordance with that up-dated five-year cost estimate unless otherwise directed by the MDEQ. If, at any time, the MDEQ determines that the FAM does not adequately secure sufficient funds, Defendant shall capitalize or revise the existing FAM or establish a new FAM acceptable to the MDEQ. After a FAM has been established, if Defendant can demonstrate that the FAM provides funds in excess of those needed to cover O&M Costs for the Facility, Defendant may submit a request to the MDEQ to reduce the amount of funds secured by the FAM. Defendant shall maintain the FAM in perpetuity or until Defendant can demonstrate to the MDEQ that such FAM is no longer necessary to protect the public health, safety, or

welfare, or environment, and is no longer necessary to assure the effectiveness and integrity of the remedial action as set forth in the MDEQ-approved RAP. The MDEQ considers any modification of a FAM to be a modification of a RAP that must be made in accordance with Section XXII (Modifications).

(d) Defendant shall notify the MDEQ within ten (10) days of its completion of construction of a remedial action pursuant to an MDEQ-approved RAP that relies on the cleanup criteria established under Section 20120a(1)(b) through (j).

6.9 Public Notice and Public Meeting Requirements under Section 20120d of the NREPA

If the MDEQ determines there is significant public interest in the results of the RI or proposed RAP required by this Decree, if Defendant proposes a RAP pursuant to Section 20120a(1)(f) through (j) or (2) of the NREPA, or if Section 20118(5) or (6) of the NREPA applies to the proposed RAP, the MDEQ will make those reports or plans available for public comment. When the MDEQ determines that the RI report, or proposed RAP is acceptable for public review, a public notice regarding the availability of those reports or plans will be published and those reports or plans shall be made available for review and comment for a period of not less than thirty (30) days. The dates and length of the public comment period shall be established by the MDEQ. If the MDEQ determines there is significant public interest or the MDEQ receives a request for a public meeting, the MDEQ will hold such public meeting in accordance with Sections 20120d(1) and (3) of the NREPA. Following the public review and comment period or a public meeting, the MDEQ may refer the RI report or proposed RAP back to Defendant for revision to address public comments and the MDEQ's comments. The MDEQ

will prepare the final responsiveness summary document that explains the reasons for the selection or approval of a remedial action plan in accordance with the provisions of Sections 20120d(5) and (6) of the NREPA. Upon the MDEQ's request, Defendant shall provide information to the MDEQ for the final responsiveness summary document or Defendant shall prepare portions of the draft responsiveness summary document.

6.10 Modification of a Response Activity Work Plan

(a) If the MDEQ determines that a modification to a response activity work plan is necessary to meet and maintain the applicable performance objectives specified in Paragraph 6.1, to comply with Part 201, or to meet any other requirement of this Decree, the MDEQ may require that such modification be incorporated into a response activity work plan previously approved by the MDEQ under this Decree. Said determination by MDEQ shall be in writing and describe the basis for the modification. If extensive modifications are necessary, the MDEQ may require Defendant to develop and submit a new response activity work plan. Defendant may request that the MDEQ consider a modification to a response activity work plan by submitting such request for modification to the appropriate MDEQ project coordinator, along with the proposed change in the response activity work plan and the justification for that change to the MDEQ for review and approval. Any such request for modification by Defendant must be forwarded to the MDEQ at least thirty (30) days prior to the date that the performance of any affected response activity is due. Any work plan modifications or any new work plans shall be developed in accordance with the applicable requirements of this Section and shall be

submitted to the MDEQ for review and approval in accordance with the procedures set forth in Section XIII (Submissions and Approvals).

(b) Upon receipt of the MDEQ's approval, Defendant shall perform the response activities specified in a modified response activity work plan or a new work plan in accordance with the MDEQ-approved implementation schedules.

(c) Defendant may dispute the determination by MDEQ that a modification is necessary pursuant to Section XVI (Dispute Resolution) of this Decree.

6.11 Progress Reports

(a) Defendant shall provide to the applicable MDEQ Project Coordinators written progress reports regarding response activities and other matters at the Facility related to the implementation of this Decree. These progress reports shall include the following:

(i) A description of the activities that have been taken toward achieving compliance with this Decree during the previous reporting period;

(ii) All results of sampling and tests and other data received by Defendant, its employees or authorized representatives during the previous reporting period relating to the response activities performed pursuant to this Decree;

(iii) The status of any access issues that have arisen, which affect or may affect the performance of response activities, and a description of how Defendant proposes to resolve those issues;

(iv) A description of the nature and amount of waste materials that were generated and a description of how these wastes were stored and/or disposed of;

(v) A description of data collection and other activities scheduled for the next reporting period; and

(vi) Any other relevant information regarding other activities or matters at the Facility that affect or may affect the implementation of the requirements of this Decree.

(b) The first progress report shall be submitted to the MDEQ within sixty (60) days following the Effective Date of this Decree. Thereafter, progress reports for each quarter shall be submitted by the 15th of January, April, July and October unless otherwise specified in the MDEQ-approved work plans. Pursuant to Paragraph 6.10, either the MDEQ may modify or Defendant may request modification of the schedule for the submittal of progress reports contained in an MDEQ-approved work plan.

6.12 Voidance and Nullification of the MDEQ's Approval of a RAP

(a) If the remedial action provided for in the MDEQ-approved RAP relies on the cleanup criteria established under Section 20120a(1)(f)-(j) or (2) of the NREPA and a lapse of the provisions required under Section 20120b(3) occurs, or the provisions of Section 20120b(3) of the NREPA as provided for in this Decree or the MDEQ-approved RAP or other requirements specified below are not complied with, the MDEQ's approval of the RAP is void from the time of the lapse or violation until the lapse or violation is corrected in accordance with Paragraph 6.12(c) and to the satisfaction of the MDEQ.

With respect to a land or resource use restriction, a lapse of, or noncompliance with, this Decree or an MDEQ-approved RAP includes the following:

(i) A court of competent jurisdiction determines that a land use or resource use restriction is unlawful;

(ii) A land use or resource use restriction is not filed or enacted in accordance with this Decree or the MDEQ-approved RAP;

(iii) A land use or resource use restriction is violated or is not enforced by the controlling entity; or

(iv) A land use or resource use restriction expires or is modified or revoked without the MDEQ's approval.

(b) If any of the circumstances listed in Rule 299.5520(11) and (12) occur, the MDEQ's approval of the RAP shall be nullified until the lapse or violation is corrected to the satisfaction of the MDEQ.

(c) Within thirty (30) days of Defendant becoming aware of a lapse or violation under Paragraph 6.12(a) or (b), Defendant shall provide to the MDEQ, for review and approval, a written notification of such lapse or violation. This notification shall include a description of the nature of the lapse or violation, an evaluation of the impact or potential impact of the lapse or violation on the effectiveness and integrity of the RAP, and one of the following:

(i) If Defendant has corrected the lapse or violation, a written demonstration of how and when Defendant corrected the lapse or violation.

(ii) If Defendant has not yet corrected the lapse or violation, a work plan and implementation schedule for addressing the lapse or violation.

(iii) If Defendant believes it will not be able to correct the lapse or violation without modifying the MDEQ-approved RAP, a work plan and implementation schedule outlining the response activities Defendant will take to comply with Part 201 and to assure that the Facility does not pose a threat to public health, safety, or welfare, or the environment.

The work plan and implementation schedule identified in Paragraph 6.12(c)(ii) and (iii) shall provide for the development of any response activity work plans and associated implementation schedules that are necessary to assure protection of public health, safety, and welfare, and the environment, including work plans for interim response activities, an RI to provide additional information to support the selection and approval of an alternative RAP, and an approvable alternative RAP that meets the performance objectives specified in Paragraph 6.1 and complies with Part 201. Defendant shall submit and the MDEQ will review and approve plans and schedules submitted pursuant to this section in accordance with the procedures set forth in Section XIII (Submissions and Approvals). Upon receipt of the MDEQ's approval, Defendant shall perform the response activities in accordance with the MDEQ-approved work plans.

(d) If Defendant does not comply with all of the requirements of Paragraph 6.12(c) or does not comply with the provisions of Section XIII (Submissions and Approvals), stipulated penalties as specified in Paragraph 15.2 shall begin to accrue the day the lapse or violation under Paragraph 6.12(a) or (b) occurred and continue to accrue until the lapse or violation is corrected to the satisfaction of the MDEQ.

(e) The provisions in Paragraphs 6.12(a) and (b) are not subject to the dispute resolution procedures set forth in Section XVI (Dispute Resolution).

6.13 The MDEQ's Performance of Response Activities

If Defendant ceases to perform the response activities required by this Decree, is not performing response activities in accordance with this Decree, or is performing response activities in a manner that causes or may cause an endangerment to human health or the environment, the MDEQ may, at its option and upon providing thirty (30) days prior written notice to Defendant, take over the performance of those response activities. The MDEQ, however, is not required to provide thirty (30) days written notice prior to performing response activities that the MDEQ determines are necessary pursuant to Section IX (Emergency Response). If the MDEQ finds it necessary to take over the performance of response activities that Defendant is obligated to perform under this Decree, Defendant shall reimburse the State for its costs to perform these response activities, and any accrued interest. Interest, at the rate specified in Section 20126a(3) of the NREPA, shall begin to accrue on the State's costs on the day the State begins to incur costs for those response activities. Costs incurred by the State to perform response activities pursuant to this Paragraph shall be considered to be "Future Response Activity Costs" and Defendant shall provide reimbursement of these costs and any accrued interest to the State in accordance with Paragraph 14.2, 14.4, and 14.5 (Reimbursement of Costs and Payment of Civil Penalties).

VII. ACCESS

7.1 Upon the Effective Date of this Decree and to the extent access to the Facility and the associated property is owned, controlled by, or available to Defendant, the MDEQ, its

authorized employees, agents, representatives, contractors and consultants, upon presentation of proper credentials and providing reasonable notice to Defendant, shall have access at all reasonable times to the Facility and the associated property for the purpose of conducting any activity to which access is required for the implementation of this Decree or to otherwise fulfill any responsibility under federal or State law with respect to the Facility, including, but not limited to:

(a) Monitoring response activities or any other activities taking place pursuant to this Decree at the Facility;

(b) Verifying any data or information submitted to the MDEQ;

(c) Conducting investigations relating to contamination at or near the Facility;

(d) Obtaining samples;

(e) Assessing the need for or planning or conducting response activities at or near the Facility;

(f) Assessing compliance with requirements for the performance of monitoring, operation and maintenance, or other measures necessary to assure the effectiveness and integrity of the remedial action;

(g) Inspecting and copying non-privileged records, operating logs, contracts or other documents;

(h) Communicating with the Defendant's Project Coordinator or other personnel, representatives, or consultants for the purpose of assessing compliance with this Decree;

(i) Determining whether the Facility or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Decree; and

(j) Assuring the protection of public health, safety, and welfare and the environment.

7.2 To the extent that the Facility, or any other property where the response activities are to be performed by the Defendant under this Decree, is owned or controlled by persons other than the Defendant, Defendant shall use its best efforts to secure from such persons access for the Parties and their authorized employees, agents, representatives, contractors and consultants. Defendant shall provide the MDEQ with a copy of each access agreement secured pursuant to this Section. For purposes of this Paragraph, "best efforts" includes, but is not limited to, providing reasonable consideration acceptable to the owner or taking judicial action to secure such access. If judicial action is required to obtain access, Defendant shall provide documentation to the MDEQ that such judicial action has been filed in a court of appropriate jurisdiction no later than sixty (60) days after Defendant's receipt of MDEQ approval of the work plan for which such access is needed. If Defendant has not been able to obtain access within sixty (60) days after filing judicial action, Defendant shall promptly notify the MDEQ of the status of its efforts to obtain access and provide an assessment of how any delay in obtaining access may affect the performance of response activities for which the access is needed. Any delay in obtaining access shall not be an excuse for delay in the performance of response activities unless the State determines that the delay was caused by a *Force Majeure* event pursuant to Section X (Delays in Performance, Violations, and *Force Majeure*). Defendant's

failure to secure access or petition the court within one year of having reason to believe that access to another person's property is necessary to comply with Section 20114 of the NREPA, subjects the Defendant to both stipulated penalties pursuant to Paragraph 15.3 (Stipulated Penalties) and civil penalties under Part 201.

7.3 Any lease, purchase, contract or other agreement entered into by Defendant, which transfers to another person a right of control over the Facility or a portion of the Facility, shall contain a provision preserving for the MDEQ or any other person undertaking the response activities and their authorized representatives, the access provided under this Section VII (Access) and Section XI (Record Retention/Access to Information).

7.4 Any person granted access to the Facility pursuant to this Decree shall comply with all applicable health and safety laws and regulations.

VIII. SAMPLING AND ANALYSIS

8.1 All sampling and analysis conducted pursuant to this Decree shall be in accordance with the QAPP specified in Paragraph 6.3 and MDEQ-approved work plans.

8.2 With the exception of sampling conducted in accordance with the procedures set forth in the "Final Revised Storm Water Interceptor Tank Sampling Plan" approved by MDEQ on July 15, 2003, Defendant, or its consultants or subcontractors, shall provide the MDEQ ten (10) days notice prior to any sampling activity to be conducted pursuant to this Decree to allow the MDEQ Project Coordinator, or his or her authorized representative, the opportunity to take split or duplicate samples or to observe the sampling procedures. In circumstances where ten (10) days notice is not possible, Defendant, or its consultants or subcontractors, shall provide

notice of the planned sampling activity as soon as possible to the MDEQ Project Coordinator and explain why earlier notification was not possible. If the MDEQ Project Coordinator concurs with the explanation provided, Defendant may forego the 10-day notification period for that particular sampling event.

8.3 Defendant shall provide the MDEQ with the results of all environmental sampling and other analytical data generated in the performance or monitoring of any requirement under this Decree, Parts 31, 55, 111 or 201of the NREPA or other relevant authorities. Said results shall be included in the Progress Reports set forth in Paragraph 6.11.

8.4 For the purpose of quality assurance monitoring, Defendant shall make provisions or arrangements that will allow the MDEQ and its authorized representatives access to any laboratory that is used by Defendant in implementing this Decree.

8.5 Either party may take split samples of all sampling events at the Property.

IX. EMERGENCY RESPONSE

9.1 If during Defendant's performance of response activities conducted pursuant to this Decree, an act or the occurrence of an event causes a release or threat of release of a hazardous substance at or from the Facility, or causes exacerbation of existing contamination at the Facility, and the release, threat of release, or exacerbation poses or threatens to pose an imminent and substantial endangerment to public health, safety, or welfare or the environment, Defendant shall immediately undertake all appropriate actions to prevent, abate or minimize such release, threat of release, exacerbation or endangerment and shall immediately notify the MDEQ's RRD Project Coordinator. In the event of his or her unavailability, Defendant shall

notify the Pollution Emergency Alerting System (PEAS, 1-800-292-4706). In such an event, any actions taken by Defendant shall be in accordance with all applicable health and safety laws and regulations and with the provisions of the HASP as set forth in Paragraph 6.4.

9.2 Within ten (10) days of notifying the MDEQ of such an act or event, Defendant shall submit a written report setting forth a description of the act or event that occurred and the measures taken or to be taken to mitigate any release, threat of release, exacerbation, or endangerment caused or threatened by the act or event and to prevent recurrence of such an act or event. Regardless of whether Defendant notifies the MDEQ under this Section, if an act or event causes a release, threat of release, or exacerbation, or poses or threatens to pose an imminent and substantial endangerment to public health, safety, or welfare or the environment, the MDEQ may: (a) require Defendant to stop response activities at the Facility for such period of time as may be needed to prevent or abate any such release, threat of release, exacerbation, or endangerment; (b) require Defendant to undertake any actions that the MDEQ determines are necessary to prevent or abate any such release, threat of release, exacerbation, or endangerment; or (c) undertake any actions that the MDEQ determines are necessary to prevent or abate such release, threat of release, exacerbation, or endangerment. This Section is not subject to the dispute resolution procedures set forth in Section XVI (Dispute Resolution).

X. DELAYS IN PERFORMANCE, VIOLATIONS, AND *FORCE MAJEURE*

10.1 Defendant shall perform the requirements of this Decree within the time limits established herein, unless performance is prevented or delayed by events that constitute a "*Force Majeure*." Defendant shall not be deemed to be in violation of this Decree if the State agrees that

a delay in performance is attributable to a *Force Majeure* event pursuant to Paragraph 10.4(a) or if Defendant's position prevails at the conclusion of a dispute resolution proceeding between the Parties regarding an alleged *Force Majeure* event. If Defendant otherwise fails to comply with or violates any requirement of this Decree and such noncompliance or violation is not attributable to a *Force Majeure* event, Defendant shall be subject to the stipulated penalties set forth in Section XV (Stipulated Penalties).

10.2 For the purposes of this Decree, a "*Force Majeure*" event is defined as any event arising from causes beyond the control of and without the fault of Defendant, of any entity controlled by Defendant, or of Defendant's contractors, that delays or prevents the performance of any obligation under this Decree despite Defendant's "best efforts to fulfill the obligation." The requirement that Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential *Force Majeure* event and to address the effects of any potential *Force Majeure* event as it is occurring and following the potential *Force Majeure* event, such that any delay is minimized to the greatest extent possible. A *Force Majeure* event does not include, among other things, unanticipated or increased costs, changed financial circumstances, labor disputes, or failure to obtain a permit or license as a result of Defendant's acts or omissions.

10.3 If either (a) an event occurs that causes or may cause a delay in the performance of any obligation under this Decree, whether or not such delay is caused by a *Force Majeure* event, or (b) a delay in performance or other violation occurs due to Defendant's failure to comply with this Decree, Defendant shall do the following:

(i) Notify the MDEQ by telephone or telefax within two (2) business days of discovering the event or violation; and

(ii) Within ten (10) days of providing the two (2) business days notice, provide a written notice, action plan, and supporting documentation to the MDEQ, which includes the following:

(1) A description of the event, delay in performance, or violation and the anticipated length and precise causes of the delay, potential delay, or violation;

(2) The specific obligations of this Decree that may be or have been affected by a delay in performance or violation;

(3) The measures Defendant has taken or proposes to take to avoid, minimize or mitigate the delay in performance or the effect of the delay, or to cure the violation, and an implementation schedule for performing those measures;

(4) If Defendant intends to assert a claim of *Force Majeure*, Defendant's rationale for attributing a delay or potential delay to a *Force Majeure* event;

(5) Whether Defendant is requesting an extension for the performance of any of its obligations under this Decree and, if so, the specific obligations for which it is seeking such an extension, the length of the requested extension, and its rationale for needing the extension; and

(6) A statement as to whether, in the opinion of Defendant, the event, delay in performance, or violation may cause or contribute to an endangerment to public health, safety, or welfare or the environment and how the measures taken or to be taken to address the event, delay in

performance or violation will avoid, minimize, or mitigate such endangerment.

10.4 The State will provide written notification of its approval, approval with modifications, or disapproval of Defendant's written notification under Paragraph 10.3 and will notify Defendant of one of the following:

(a) If the State agrees with Defendant's assertion that a delay in performance or potential delay is attributable to a *Force Majeure* event, the MDEQ's written notification will include the length of the extension, if any, for the performance of specific obligations under this Decree that are affected by the *Force Majeure* event and for which Defendant is seeking an extension. An extension of the schedule for performance of a specific obligation affected by a *Force Majeure* event shall not, by itself, extend the schedule for performance of any other obligation.

(b) If the State does not agree with Defendant's assertion that a delay in performance or anticipated delay has been or will be caused by an alleged *Force Majeure* event, the State will notify Defendant of its decision. If Defendant disagrees with the State's decision, Defendant may initiate the dispute resolution process specified in Section XVI (Dispute Resolution) of this Decree. In any such proceeding, Defendant shall have the burden of demonstrating by the preponderance of the evidence that: (i) the delay in performance or anticipated delay has been or will be caused by a *Force Majeure* event; (ii) the duration of the delay or the extension sought by Defendant was or will be warranted under the circumstances; (iii) Defendant exercised its best efforts to fulfill the obligation; and (iv) Defendant has complied with all requirements of this Section X.

(c) If Defendant's notification pertains to a delay in performance or other violation that has occurred because of its failure to comply with the requirements of this Decree, Defendant shall undertake those actions determined to be necessary and appropriate by the MDEQ to address the delay in performance or violation, including the modification of a response activity work plan, and shall pay stipulated penalties upon receipt of the MDEQ's demand for payment as set forth in Section XV (Stipulated Penalties). Penalties shall accrue as provided in Section XV (Stipulated Penalties) regardless of when Defendant notifies the MDEQ or when the MDEQ notifies Defendant of a violation.

10.5 This Decree shall be modified as set forth in Section XXII (Modifications) to reflect any modifications to the implementation schedule of the applicable response activity work plan that are made pursuant to Paragraph 10.4(a) or that are made pursuant to the resolution of a dispute between the Parties under Section XVI (Dispute Resolution).

10.6 Defendant's failure to comply with the applicable notice requirements of Paragraph 10.3 shall render this Section X void and of no force and effect with respect to an assertion of *Force Majeure* by Defendant; however, the State may waive these notice requirements in its sole discretion and in appropriate circumstances. The State will provide written notice to Defendant of any such waiver.

10.7 Defendant's failure to notify the MDEQ as required by Paragraph 10.3 constitutes an independent violation of this Decree and shall subject Defendant to stipulated penalties as set forth in Section XV (Stipulated Penalties).

XI. RECORD RETENTION/ACCESS TO INFORMATION

11.1 Defendant and its representatives, consultants and contractors shall preserve and retain, during the pendency of this Decree and for a period of five (5) years after completion of operation and maintenance and long-term monitoring at the Facility, all records, sampling and test results, charts, and other documents relating to the release or threatened release of hazardous substances and the storage, generation, disposal, treatment or handling of hazardous substances at the Facility, and any records that are maintained or generated pursuant to any requirement of this Decree. However, if Defendant chooses to perform a RAP that relies on the cleanup criteria established under Section 20120a(1)(f) through (j) or (2) and that RAP provides for land or resource use restrictions, Defendant shall retain any records pertaining to these land or resource use restrictions in perpetuity or until the MDEQ determines that land and resource use restrictions are no longer needed. After the five (5) year period of document retention following completion of operation and maintenance and long-term monitoring at the Facility, Defendant may seek the MDEQ's written permission to destroy any documents that are not required to be held in perpetuity. In the alternative, Defendant may make a written commitment, with the MDEQ's approval, to continue to preserve and retain the documents for a specified period of time, or Defendant may offer to relinquish custody of all documents to the MDEQ. In any event, Defendant shall obtain the MDEQ's written permission prior to the destruction of any documents. Defendant's request shall be accompanied by a copy of this Decree and sent to the address listed in Paragraph 12.1(a)(6) or to such other address as may subsequently be designated in writing by the MDEQ.

11.2 Upon request, Defendant shall provide to the MDEQ copies of all documents and information within its possession, or within the possession or control of its employees, contractors, agents or representatives, relating to the performance of response activities or implementation of other requirements of this Decree, including, but not limited to, records regarding the collection and analysis of samples, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing forms, or other correspondence, documents, or information related to response activities. Upon request, Defendant also shall make available to the MDEQ, upon reasonable notice, Defendant's employees, contractors, agents or representatives with knowledge of relevant facts concerning the performance of response activities.

11.3 If Defendant submits to the MDEQ documents or information that Defendant believes it is entitled to protection as provided for in Section 20117(10) and (11) of the NREPA, Defendant may designate in that submittal the documents or information to which it believes it is entitled such protection. If no such designation accompanies the information when it is submitted to the MDEQ, the information may be made available to the public by the MDEQ without further notice to Defendant. Information described in Section 20117(11)(a) through (h) of the NREPA shall not be claimed as confidential or privileged by Defendant. Information or data generated under this Decree shall not be subject to Part 148, Environmental Audit Privilege and Immunity, of the NREPA, MCL 324.14801 *et seq.*

XII. PROJECT COORDINATORS AND COMMUNICATIONS/NOTICES

12.1 Each Party shall designate one or more Project Coordinators. Whenever notices are required to be given or Progress Reports, information on the collection and analysis of

samples, sampling data, work plan submittals, approvals, or disapprovals, or other technical submissions are required to be forwarded by one Party to the other Party under this Decree, or whenever other communications between the parties is needed, such communications shall be directed to the Project Coordinators at the addresses listed below. If any Party changes its designated Project Coordinator, the name, address and telephone number of the successor shall be provided to the other Party, in writing, as soon as practicable.

(a) As to MDEQ:

(1) For all matters set forth in Paragraphs 6.3-6.13:

Rebecca Taylor, RRD Project Coordinator
Remediation and Redevelopment Division
Lansing District
Michigan Department of Environmental Quality
525 West Allegan, 5th Floor, South Tower
Lansing, Michigan 48933
Phone: (517) 335-6247
Fax: (517) 241-3571

This Project Coordinator will have primary responsibility for overseeing the performance of response activities in Paragraphs 6.3-6.13. A copy of all Submissions that are submitted under 12.1(a)(2)-(5) shall also be provided to the RRD Project Coordinator.

(2) For all matters set forth in Paragraph 5.4:

Cheryl Bartley, WB Project Coordinator
WB Lansing District Office
Michigan Department of Environmental Quality
525 West Allegan, 4th Floor, North Tower
Lansing, Michigan 48933
Phone: (517) 335-6093
Fax: (517) 241-3571

This Project Coordinator will have primary responsibility for overseeing the performance of response activities in Paragraph 5.4.

(3) For all matters set forth in Paragraphs 5.3:

Michael Masterson, AQD Project Coordinator
Air Quality Division
Lansing District
Michigan Department of Environmental Quality
525 West Allegan, 4th Floor, North Tower
Lansing, Michigan 48933
Phone: (517) 335-6292
Fax: (517) 241-3571

This Project Coordinator will have primary responsibility for overseeing the performance of response activities in Paragraph 5.3.

(4) For all matters set forth in Paragraphs 5.2:

William Yocum, WHMD Project Coordinator
Waste and Hazardous Materials Division
Lansing District
Michigan Department of Environmental Quality
525 West Allegan, 5th Floor, South Tower
Lansing, Michigan 48933
Phone: (517) 625-5515 (*0714)
Fax: (517) 625-5000

This Project Coordinator will have primary responsibility for overseeing the performance of response activities in Paragraph 5.2.

(5) For all matters specified in this Decree that are to be directed to the RRD Division Chief:

Chief, Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, MI 48909
Telephone: 517-335-1104
FAX: 517-373-2637

(Via courier)
525 West Allegan
Constitution Hall
South Tower, 4th Floor
Lansing, MI 48933

A copy of all correspondence that is sent to the Chief of the RRD shall also be provided to the RRD Project Coordinator designated in Paragraph 12.1(a)(1).

(6) For Record Retention pursuant to Section XI (Record Retention/Access to Information), and questions concerning financial matters pursuant to Section VI (Performance of Response Activities (financial assurance mechanisms associated with a RAP)), Section XIV (Reimbursement of Costs and Payment of Civil Penalties), and Section XV (Stipulated Penalties):

Chief, Compliance and Enforcement Section
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, MI 48909-7926
Telephone: 517-373-7818
FAX: 517-373-2637

(Via courier)
525 West Allegan
Constitution Hall
South Tower, 4th Floor
Lansing, MI 48933

A copy of all correspondence that is sent to the Chief of the Compliance and Enforcement Section, RRD, shall also be provided to the RRD Project Coordinator designated in Paragraph 12.1(a)(1).

(7) For all payments pursuant to Paragraphs 14.1, and 14.2 and Section XV (Stipulated Penalties):

Revenue Control Unit
Financial and Business Services Division
Michigan Department of Environmental Quality
P.O. Box 30657
Lansing, MI 48909-8157

(Via courier)
525 West Allegan
Constitution Hall
South Tower, 5th Floor
Lansing, MI 48933

To ensure proper credit, all payments made pursuant to Paragraphs 14.1, and 14.2, and Section XV (Stipulated Penalties) must reference Diamond Chrome Plating, Inc., the Ingham County Circuit Court Number and the MDEQ Account Number MUL 3011.

A copy of all correspondence that is sent to the Revenue Control Unit shall also be provided to the RRD Project Coordinator designated in Paragraph 12.1(a)(1), the Chief of the Compliance and Enforcement Section designated in Paragraph 12.1(a)(5), and the Assistant Attorney General in Charge designated in Paragraph 12.1(b).

b. As to the Department of Attorney General:

Assistant Attorney General in Charge
Environment, Natural Resources, and Agriculture Division
Department of Attorney General
525 West Ottawa, Williams Building, 6th Floor
P.O. Box 30755
Lansing, MI 48909
Telephone: 517-373-7540
FAX: 517-373-1610

c. As to Diamond Chrome:

Mr. Scott Adamowski (Project Coordinator)
Conestoga-Rovers & Associates, Inc.
14496 Sheldon Road
Suite 200
Plymouth, MI 48170
Telephone: 734-453-5123
FAX: 734-453-5201

Saulius Mikalonis
Beth S. Gotthelf
Butzel Long
100 Bloomfield Hills Parkway
Suite 200
Bloomfield Hills, MI 48304
Telephone: 248-258-1303
FAX: 248-258-1439

Mr. John C. Beatty, III
Diamond Chrome Plating, Inc.
604 South Michigan Avenue
P.O. Box 557
Howell, MI 48844
Telephone: 517-546-0150
FAX: 517-546-3666

12.2 Diamond Chrome's Project Coordinator shall have primary responsibility for overseeing the performance of the response activities at the Facility and other requirements specified in this Decree for Defendant.

12.3 The MDEQ may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Decree.

XIII. SUBMISSIONS AND APPROVALS

13.1 All Submissions required by this Decree shall comply with all applicable laws and regulations and the requirements of this Decree and be delivered to the MDEQ in accordance with the schedules set forth in this Decree. All Submissions delivered to the MDEQ pursuant to this Decree shall include a reference to Diamond Chrome Plating, Inc. and the Court Case Number. Any Submission delivered to the MDEQ for approval also shall be marked "Draft" and shall include, in a prominent location in the document, the following disclaimer: "Disclaimer: This document is a DRAFT document that has not received final approval from the Michigan Department of Environmental Quality (MDEQ). This document was prepared pursuant to a Court Decree. The opinions, findings, and conclusions expressed are those of the authors and not those of the MDEQ."

13.2 After receipt of any Submission relating to response activities that is required to be submitted for approval pursuant to Paragraphs 6.3, 6.6, 6.7, and 6.9-6.12 of this Decree, the RRD District Supervisor will in writing: (a) approve the Submission; (b) approve the Submission with modifications; or (c) disapprove the Submission and notify Defendant of the

deficiencies in the Submission. Upon receipt of a notice of approval or approval with modifications from the MDEQ, Defendant shall proceed to take the actions and perform the response activities required by the Submission, as approved or as modified, and shall submit a new cover page and any modified pages of the Submission marked "Final."

13.3 Upon receipt of a notice of disapproval from the MDEQ pursuant to Paragraph 13.2(c), Defendant shall correct the deficiencies and resubmit the Submission for MDEQ review and approval within thirty (30) days or receipt of the notice, unless the notice of disapproval specifies a longer time period for resubmission. Unless otherwise stated in the MDEQ's notice of disapproval, Defendant shall proceed to take the actions and perform the response activities not directly related to the deficient portion of the Submission. Any stipulated penalties applicable to the delivery of the Submission shall accrue during the thirty (30)-day period or other time period for Defendant to resubmit the Submission, but shall not be payable unless the resubmission is also disapproved. The MDEQ will review any resubmitted Submission in accordance with the procedure set forth in Paragraph 13.2. If a resubmitted Submission is disapproved, the MDEQ will so advise Defendant and, as set forth above, stipulated penalties shall accrue from the date of the MDEQ's disapproval of the original Submission and continue to accrue until Defendant delivers an approvable Submission.

13.4 Within six (6) months of receipt of a RAP submitted pursuant to paragraph 6.8, the RRD Division Chief will make a decision regarding the RAP and will in writing: (a) approve the RAP; (b) reject the RAP as insufficient if the RAP lacks any information necessary or required by the MDEQ to make a decision regarding RAP approval; or (c) deny approval of the RAP. If the MDEQ denies approval of the RAP, it will provide Defendant with a complete and

specific statement of the conditions or requirements necessary to obtain approval to which the MDEQ may not add additional items after it has been issued. If the MDEQ fails to approve or deny approval of the RAP within six (6) months from the date of receipt of all the information necessary or required for the MDEQ to make its decision, the RAP shall be considered approved. The time period for a decision regarding the submitted RAP may be extended by the mutual consent of the Parties. Upon receipt of a notice of approval from the MDEQ, Defendant shall proceed to take the actions and perform the response activities required by the MDEQ-approved RAP and submit a new cover page marked "Final."

13.5 Within sixty (60) days of receipt of a rejection or denial of approval of a RAP from the MDEQ pursuant to 13.4(b) or (c), Defendant shall resubmit the RAP for MDEQ review and approval. The time frame for resubmission may be extended by the MDEQ. If the MDEQ does not approve the RAP upon resubmission, the MDEQ will so advise Defendant. Any stipulated penalties applicable to the delivery of the RAP shall accrue during the sixty (60) day period or other time period for Defendant to submit another RAP, but shall not be payable unless the resubmitted RAP also is rejected or approval is denied. The MDEQ will review the resubmitted RAP in accordance with the procedure stated in Paragraph 13.4. If the MDEQ rejects or denies a resubmitted RAP, the MDEQ will so advise Defendant and, as set forth above, stipulated penalties shall accrue from the date of the MDEQ's disapproval of the original RAP Submission and continue to accrue until Defendant delivers an approvable RAP.

13.6 If the initial submittal of any Submission, including a RAP, contains significant deficiencies such that the Submission is not in the judgment of the MDEQ a good faith effort by Defendant to deliver an acceptable Submission that complies with Part 201 or this Decree, the

MDEQ will notify Defendant of such and will deem Defendant to be in violation of this Decree. Stipulated penalties as set forth in Section XV (Stipulated Penalties) shall begin to accrue on the day after the Submission was due until an approvable Submission is submitted to the MDEQ. Any other delay in the delivery of a Submission, noncompliance with a Submission or attachment to this Decree, or failure to cure a deficiency of a Submission in accordance with Paragraphs 13.3 or 13.5, shall subject Defendant to penalties pursuant to Section XV (Stipulated Penalties) or other remedies available to the State pursuant to this Decree.

13.7 Upon approval by the MDEQ, any Submission and attachments to Submissions required by this Decree shall be considered to be part of this Decree and are enforceable pursuant to the terms of this Decree. If there is a conflict between the requirements of this Decree and any Submission or an attachment to a Submission, the requirements of this Decree shall prevail.

13.8 An approval or approval with modifications of a Submission shall not be construed to mean that the MDEQ concurs with any of the conclusions, methods, or statements in the Submission or warrants that the Submission comports with law.

13.9 No informal advice, guidance, suggestions or comments by the MDEQ regarding any Submission provided by Defendant shall be construed as relieving Defendant of its obligation to obtain any formal approval required under this Decree.

13.10 For Submissions required pursuant to Paragraph 5.4 the procedures set forth in Paragraphs 13.1-13.3 and 13.6-13.9 shall apply but the decision maker shall be the WB Project Coordinator designated in Paragraph 12.1(a)(2).

13.11 For Submissions required pursuant to Paragraph 5.2 the procedures set forth in Paragraphs 13.1-13.3 and 13.6-13.9 shall apply but the decision maker shall be the WHMD Project Coordinator designated in Paragraph 12.1(a)(4).

13.12 For Submissions required pursuant to Paragraph 5.3 the procedures set forth in Paragraphs 13.1-13.3 and 13.6-13.9 shall apply but the decision maker shall be the AQD Project Coordinator designated in Paragraph 12.1(a)(3).

XIV. REIMBURSEMENT OF COSTS AND PAYMENT OF CIVIL PENALTIES

14.1 Defendant shall pay the MDEQ: (a) One Hundred Eighty-Seven Thousand Dollars $187,000.00 to resolve all State claims for Past Response Activity Costs and to resolve Past Surveillance and Enforcement Costs. Defendant shall pay $100,000.00 to resolve all claims for past violations of Parts 31, 55, 111, and 201. Payment of the total $287,000.00 shall be made as follows: The first payment of $15,000.00 shall be made on September 30, 2006 and quarterly payments of $15,000.00 shall be made each quarter on December 30, March 30, June 30, and September 30, until the balance of $287,000.00 is paid in full. Payment shall be made in accordance with Paragraph 14.4.

14.2 Defendant shall reimburse the State for all Future Response Activity Costs incurred by the State. As soon as possible after each anniversary of the Effective Date of this Decree, the MDEQ will provide Defendant with a written demand for payment of Future Response Activity Costs that have been lawfully incurred by the State. Any such demand will set forth with reasonable specificity the nature of the costs incurred. Except as provided by Section XVI (Dispute Resolution), Defendant shall reimburse the MDEQ a maximum of $5,000 per year

for such costs within thirty (30) days of receipt of a written demand from the MDEQ. Any costs above the capped amount of $5,000 that was incurred by the MDEQ and not paid by the Defendant shall roll over into the costs to be paid in the following annual invoice, and shall continue to roll over into the next annual invoice in succession until all Future Response Activity Costs have been paid in full.

14.3 Defendant shall have the right to request a full and complete accounting of all MDEQ demands made hereunder, including time sheets, travel vouchers, contracts, invoices, and payment vouchers as may be available to the MDEQ. The MDEQ's provision of these documents to Defendant may result in the MDEQ incurring additional Future Response Activity Costs, which will be included in the annual demand for payment of Future Response Activity Costs.

14.4 All payments made pursuant to Paragraphs 14.1, and 14.2 of this Decree shall be by check, made payable to the "State of Michigan - Environmental Response Fund," and shall be sent by first class mail to the Revenue Control Unit at the address listed in Paragraph 12.1(a)(7) of Section XIV (Project Coordinators and Communications/Notices). Diamond Chrome Plating Facility, Inc., the Ingham County Circuit Court Case Number, and the MDEQ Account Number MUL 3011shall be designated on each check. A copy of the transmittal letter and the check shall be provided simultaneously to the Chief of the Compliance and Enforcement Section, RRD, at the address listed in Paragraph 12.1(a)(6), the RRD Project Coordinator, at the address listed in 12.1(a)(1), and the Assistant Attorney General in Charge, at the address listed in Paragraph 12.1(b). Costs recovered pursuant to paragraphs 14.1 and 14.2, and payment of stipulated

penalties pursuant to Section XVII, shall be deposited into the Environmental Response Fund in accordance with the provisions of Section 20108(3) of the NREPA.

14.5 If Defendant fails to make full payment to the MDEQ for Past Response Activity Costs or Future Response Activity Costs as specified in Paragraphs 14.1 and 14.2, interest at the rate specified in Section 20126a(3) of the NREPA, shall begin to accrue on the unpaid balance on the day after payment was due until the date upon which Defendant makes full payment of those costs and the accrued interest to the MDEQ. In any challenge by Defendant to a MDEQ demand for reimbursement of costs, Defendant shall have the burden of establishing that the MDEQ did not lawfully incur those costs in accordance with Section 20126a(1)(a) of the NREPA.

XV. STIPULATED PENALTIES

15.1 Defendant shall be liable for stipulated penalties in the amounts set forth in Paragraphs 15.2 and 15.3 for failure to comply with the requirements of this Decree, unless excused under Section X (Delays in Performance, Violations, and *Force Majeure*). "Failure to Comply" by Defendant shall include failure to deliver Submissions and notifications, failure to perform response activities in accordance with MDEQ-approved plans and this Decree, and failure to pay response activity costs and penalties in accordance with all applicable requirements of law and this Decree within the specified implementation schedules established by and approved under this Decree.

15.2 The following stipulated penalties shall accrue per violation per day for any violation of Paragraphs 5.2 - 5.4 and Section VI.

Penalty Per Violation Per Day	Period of Noncompliance
$ 250	1st through 14th day
$ 500	15th through 30th day
$1,000	31st day and beyond

15.3 Except as provided in Paragraph 15.2 and Sections X (Delays in Performance, Violations, and *Force Majeure*) and XVI (Dispute Resolution), if Defendant fails or refuses to comply with any other term or condition of this Decree, Defendant shall pay the MDEQ stipulated penalties of $250.00 a day for each and every failure or refusal to comply.

15.4 All penalties shall begin to accrue on the day after performance of an activity was due or the day a violation occurs, and shall continue to accrue through the final day of completion of performance of the activity or correction of the violation. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Decree.

15.5 Except as provided in Section XVI (Dispute Resolution), Defendant shall pay stipulated penalties owed to the State no later than thirty (30) days after Defendant's receipt of a written demand from the State. Payment shall be made in the manner set forth in Paragraph 14.4 Section XIV (Reimbursement of Costs and Payment of Civil Penalties). Interest shall begin to accrue on the unpaid balance at the end of the thirty (30)- day period at the rate provided for in Section 20126a(3) of NREPA on the day after payment was due until the date upon which Defendant makes full payment of those stipulated penalties and the accrued interest to the MDEQ. Failure to pay the stipulated penalties within thirty (30) days after receipt of a written demand constitutes a further violation of the terms and conditions of this Decree.

15.6 The payment of penalties shall not alter in any way Defendant's obligation to complete the performance of response activities required by this Decree.

15.7 If Defendant fails to pay stipulated penalties when due, the State may institute proceedings to collect the penalties, as well as any accrued interest. However, the assessment of stipulated penalties is not the State's exclusive remedy if Defendant violates this Decree. For any failure or refusal of Defendant to comply with the requirements of this Decree, the State also reserves the right to pursue any other remedies to which it is entitled under this Decree or any applicable law including, but not limited to, seeking civil penalties, injunctive relief, the specific performance of response activities, reimbursement of costs, exemplary damages pursuant to Section 20119(4) of the NREPA in the amount of three (3) times the costs incurred by the State as a result of Defendant's violation of or failure to comply with this Decree, and sanctions for contempt of court.

15.8 Notwithstanding any other provision of this Section, the State may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Decree.

XVI. DISPUTE RESOLUTION

16.1 Unless otherwise expressly provided for in this Decree, the dispute resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising under or with respect to this Decree, except for Paragraph 6.12(a) and (b) (Voidance and Nullification of the MDEQ's Approval of a RAP) and Section IX (Emergency Response), which are not disputable. However, the procedures set forth in this Section shall not apply to actions by the

State to enforce obligations of Defendant that have not been disputed in accordance with this Section. Engagement of dispute resolution under this Section XVI shall not be cause for Defendant to delay the performance of any response activity required under this Decree.

16.2 The State shall maintain an administrative record of any disputes that are initiated pursuant to this Section. The administrative record shall include the information Defendant provides to the State under Paragraphs 16.3-16.5 and any documents the MDEQ and State rely on to make the decisions set forth in Paragraphs 16.3-16.5. Defendant shall have the right to request that the administrative record be supplemented with other material involving matters in dispute pursuant to MCL 324.20137(5).

16.3 Any dispute that arises under this Decree with respect to the MDEQ's disapproval, modification, or other decision concerning the requirements of Paragraphs 6.3, 6.5-6.7, and 6.9-6.11 of Section VI (Performance of Response Activities), Section VIII (Sampling and Analysis), or Section XIII (Submissions and Approvals) shall in the first instance be the subject of informal negotiations between the RRD Project Coordinators and Defendant's Project Coordinator. A dispute shall be considered to have arisen on the date that a Party to this Decree receives a written Notice of Dispute from the other Party. This Notice of Dispute shall state the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation upon which the Party bases its position. The period of informal negotiations shall not exceed twenty (20) days from the date a Party receives a Notice of Dispute, unless the time period for negotiations is modified by written agreement between the Parties. If the Parties do not reach an agreement within twenty (20) days, the RRD District Supervisor will thereafter provide a written RRD Statement of Decision to

Defendant. In the absence of initiation of formal dispute resolution by Defendant under Paragraph 16.4, the MDEQ's position as set forth in the RRD Statement of Decision shall be binding on the Parties.

16.4 If Defendant and the MDEQ cannot informally resolve a dispute under Paragraph 16.3 or if the dispute involves the MDEQ-approved RAP, Defendant may initiate formal dispute resolution by submitting a written request for review of the disputed issues (Request for Review) to the RRD Division Chief. Defendant must file a Request for Review with the RRD Division Chief and the MDEQ Project Coordinator within fifteen (15) days of Defendant's receipt of the RRD Statement of Decision issued pursuant to Paragraph 16.3 or within fifteen (15) days after a dispute concerning the MDEQ approved RAP arises. Defendant's Request for Review shall state the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation upon which Defendant bases its position. Within twenty (20) days of the RRD Division Chief's receipt of Defendant's Request for Review, the RRD Division Chief will provide a written Final RRD Statement of Decision to Defendant, which will include a statement of his/her understanding of the issues in dispute; the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting her/his position; and all supporting documentation he/she relied upon in making the decision. The time period for the RRD Division Chief's review of the Request for Review may be extended by written agreement between the Parties. The Final RRD Statement of Decision shall be binding on the Parties, unless either Party files a motion with the court as set forth in paragraph 16.6.

16.5 If Defendant seeks to challenge any decision or notice issued by the MDEQ or the State under this Decree, except for any decision or notice regarding matters covered by Paragraph 6.12(a) and (b) (Voidance and Nullification of the MDEQ's Approval of a RAP), Section IX (Emergency Response), Paragraphs 16.3, 16.4, and 16.10-16.12, Defendant shall send a written Notice of Dispute to both the RRD Division Chief and the Assistant Attorney General assigned to this matter within ten (10) days of Defendant's receipt of the decision or notice from the MDEQ or State. The Notice of Dispute shall include the relevant facts upon which the dispute is based; any factual data, analysis, or opinion supporting its position; and all supporting documentation upon which Defendant bases its position. The Parties shall have thirty (30) days from the date of the State's receipt of the Notice of Dispute to reach an agreement. If an agreement is not reached on any issue within the thirty (30)- day period, the State will thereafter issue, in writing, the State's Statement of Decision to Defendant, which shall be binding on the Parties.

16.6 The Final RRD Statement of Decision or the State's Statement of Decision pursuant to Paragraph 16.4 or 16.5, respectively, shall control unless, within twenty (20) days after Defendant's receipt of one of those Decisions, Defendant files with this Court a motion for resolution of the dispute, which sets forth the matter in dispute, the efforts made by the Parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to insure orderly implementation of this Decree. Within thirty (30) days of Defendant's filing of a motion asking the Court to resolve a dispute, Plaintiff will file with the Court the administrative record that is maintained pursuant to Paragraph 16.2.

16.7 Any judicial review of the Final RRD Statement of Decision or the State's Statement of Decision shall be limited to the administrative record. In proceedings on any dispute relating to the selection, extent, or adequacy of any aspect of the response activities that are the subject of this Decree, Defendant shall have the burden of demonstrating on the administrative record that the position of the MDEQ is arbitrary and capricious or otherwise not in accordance with law. In proceedings on any dispute, Defendant shall bear the burden of persuasion on factual issues under the applicable standards of review. Nothing herein shall prevent Plaintiff from arguing that the Court should apply the arbitrary and capricious standard of review to any dispute under this Decree.

16.8 Notwithstanding the invocation of a dispute resolution proceeding, stipulated penalties shall accrue from the first day of any failure or refusal to comply with any term or condition of this Decree, but payment shall be stayed pending resolution of the dispute. In the event, and to the extent, that Defendant does not prevail on the disputed issue, the MDEQ may demand payment of stipulated penalties and Defendant shall pay stipulated penalties as set forth in Paragraph 15.5 (Stipulated Penalties). Defendant shall not be assessed stipulated penalties for disputes that are resolved in its favor.

16.9 Notwithstanding the provisions of this Section and in accordance with Sections XIV (Reimbursement of Costs and Payment of Civil Penalties) and XV (Stipulated Penalties), as appropriate, Defendant shall pay to the MDEQ that portion of a demand for reimbursement of costs or for payment of stipulated penalties that is not the subject of an on-going dispute resolution proceeding.

16.10 For disputes arising under or relating to Paragraph 5.4, the procedures set forth in this Section shall apply except the Project Coordinator shall be the person identified in 12.1(a)(2) and the WB District Supervisor and the WB Chief shall be the decision makers in Paragraphs 16.4 and 16.5, as appropriate.

16.11 For disputes arising under or relating to Paragraph 5.2 the procedures set forth in this Section shall apply except the Project Coordinator shall be the person identified in 12.1(a)(4) and the WHMD District Supervisor and the WHMD Chief shall be the decision-makers in Paragraphs 16.4 and 16.5, as appropriate.

16.12 For disputes arising under or relating to Paragraph 5.3 the procedures set forth in this Section shall apply except the Project Coordinator shall be the person identified in 12.1(a)(3) and the AQD District Supervisor and the AQD Chief shall be the decision makers in Paragraphs 16.4 and 16.5, as appropriate.

XVII. INDEMNIFICATION AND INSURANCE

17.1 The State of Michigan does not assume any liability by entering into this Decree. This Decree shall not be construed to be an indemnity by the State for the benefit of Defendant or any other person.

17.2 Defendant shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors and representatives for any claims or causes of action that arise from, or on account of, any acts or omissions of Defendant, its officers, employees, agents, or any persons acting on its behalf, or under its control, in performing the activities required by this Decree.

17.3 Defendant shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, agents, employees, contractors and representatives for any claims or causes of action for damages or reimbursement from the State that arise from, or on account of, any contract, agreement, or arrangement between Defendant and any person for the performance of response activities at the Facility, including any claims on account of construction delays.

17.4 The State will provide Defendant notice of any claim for which the State intends to seek indemnification pursuant to Paragraphs 17.2 and 17.3.

17.5 Neither the State of Michigan nor any of its departments, agencies, officials, agents, employees, contractors or representatives shall be held out as a party to any contract that is entered into by or on behalf of Defendant for the performance of activities required by this Decree. Neither Defendant nor any contractor shall be considered an agent of the State.

17.6 Defendant waives all claims or causes of action against the State of Michigan and its departments, agencies, officials, agents, employees, contractors, and representatives for damages, reimbursement, or set-off of any payments made or to be made to the State, that arise from, or on account of, any contract, agreement or arrangement between Defendant and any other person for the performance of response activities at the Facility, including any claims on account of construction delays.

17.7 Prior to commencing any response activities pursuant to this Decree and for the duration of this Decree, Defendant shall secure and maintain comprehensive general liability insurance with limits of One Million Dollars ($1,000,000.00), combined single limit, which

names the MDEQ, the Attorney General and the State of Michigan as additional insured parties. If Defendant demonstrates by evidence satisfactory to the MDEQ that any contractor or subcontractor maintains insurance equivalent to that described above, then with respect to that contractor or subcontractor, Defendant shall provide only that portion, if any, of the insurance described above that is not maintained by the contractor or subcontractor. Regardless of the insurance method used by Defendant, prior to the commencement of response activities pursuant to this Decree, Defendant shall provide the MDEQ Project Coordinator and the Attorney General with certificates evidencing said insurance and the MDEQ's, the Attorney General's and the State of Michigan's status as additional insured parties. In addition, for the duration of this Decree, Defendant shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of Workers' Disability Compensation Insurance for all persons performing response activities on behalf of Defendant in furtherance of this Decree.

XVIII. COVENANTS NOT TO SUE BY PLAINTIFF

18.1 In consideration of the actions that will be performed and the payments that will be made by Defendant under the terms of this Decree, and except as specifically provided for in this Section and Section XIX (Reservation of Rights by Plaintiff), the State of Michigan hereby covenants not to sue or to take further administrative action against Defendant for:

(a) Response activities that Defendant performs pursuant to MDEQ-approved work plans under this Decree.

(b) Reimbursement of Past Response Activity Costs and Past Surveillance and Enforcement Costs incurred by the State as set forth in Paragraphs 14.1 and any applicable interest accrued pursuant to Paragraph 14.5 of this Decree.

(c) Reimbursement of Future Response Activity Costs that are incurred by the State and paid by Defendant as set forth in Paragraphs 14.2, and any applicable interest accrued pursuant to Paragraph 14.5 of this Decree.

(d) Payment of civil penalties for Past Violations of Parts 31, 55, and 111 of the NREPA as set forth in Paragraph 14.1.

18.2 The covenants not to sue shall take effect under this Decree as follows:

(a) With respect to Defendant's liability for response activities performed in compliance with MDEQ–approved work plans under this Decree, the covenant not to sue shall take effect upon MDEQ's approval of the RAP submitted pursuant to Section VI (Performance of Response Activities).

(b) With respect to Defendant's liability for Past Response Activity Costs Past Surveillance and Enforcement Costs, and Future Response Activity Costs incurred by the State and paid by Defendant, the covenants not to sue shall take effect upon the MDEQ's receipt of payments for those costs and any applicable interest.

(c) With respect to civil penalties for Past Violations of Parts 31, 55, and 111 of the NREPA to be paid pursuant to this Decree, the covenant not to sue shall take effect upon the State's receipt of payment for those penalties.

18.3 The covenants not to sue extend only to Defendant and do not extend to any other person.

XIX. RESERVATION OF RIGHTS BY PLAINTIFF

19.1 The covenants not to sue apply only to those matters specified in Paragraph 18.1. These covenants not to sue do not apply to, and the State reserves its rights on, the matters specified in Paragraph 18.1 until such time as these covenants become effective as set forth in Paragraph 18.2. The MDEQ and the Attorney General reserve the right to bring an action against Defendant under federal and state laws for any matters for which Defendant has not received a covenant not to sue as set forth in Section XVIII (Covenants Not to Sue by Plaintiff). The State reserves, and this Decree is without prejudice to, all rights to take administrative action or to file a new action pursuant to any applicable authority against Defendant with respect to all other matters, including, but not limited to, the following:

(a) the performance of response activities that are required to achieve and maintain the performance objectives specified in Paragraph 6.1;

(b) Any Response Activity Costs which Defendant has not paid;

(c) the past, present or future treatment, handling, disposal, release or threat of release of hazardous substances that occur outside of the Facility and that are not attributable to the Facility;

(d) the past, present or future treatment, handling, disposal, release or threat of release of hazardous substances taken from the Facility;

(e) damages for injury to, destruction of, or loss of natural resources and the costs for any natural resource damage assessment;

(f) criminal acts;

(g) any matters for which the State is owed indemnification under Section XVII (Indemnification and Insurance) of this Decree; and

(h) the release or threatened release of hazardous substances or for violations of federal or state law that occur during or after the performance of response activities required by this Decree.

19.2 The State reserves the right to take action against Defendant if it discovers at any time that any material information provided by Defendant prior to or after entry of this Decree was false or misleading.

19.3 The MDEQ and the Attorney General expressly reserve all rights and defenses pursuant to any available legal authority that they may have to enforce this Decree or to compel Defendant to comply with the NREPA.

19.4 In addition to, and not as a limitation of any other provision of this Decree, the MDEQ retains all authority and reserves all rights to perform, or contract to have performed, any response activities that the MDEQ determines are necessary.

19.5 In addition to, and not as a limitation of any provision of this Decree, the MDEQ and the Attorney General retain all of their information gathering, inspection, access, and enforcement authorities and rights under Part 201 of the NREPA and any other applicable statute or regulation.

19.6 Failure by the MDEQ or the Attorney General to enforce any term, condition or requirement of this Decree in a timely manner shall not:

(a) Provide or be construed to provide a defense for Defendant's noncompliance with any such term, condition or requirement of this Decree; or

(b) Estop or limit the authority of MDEQ or the Attorney General to later enforce any such term, condition or requirement of the Decree or to seek any other remedy provided by law.

19.7 This Decree does not constitute a warranty or representation of any kind by the MDEQ that the response activities performed by Defendant in accordance with the MDEQ-approved work plans required by this Decree will result in the achievement of the performance objectives stated in Paragraph 6.1 or the remedial criteria established by law, or that those response activities will assure protection of public health, safety, or welfare, or the environment.

19.8 Except as provided in Paragraph 18.1(a), nothing in this Decree shall limit the power and authority of the MDEQ or the State of Michigan, pursuant to Section 20132(8) of the NREPA, to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment; or to prevent, abate or minimize a release or threatened release of hazardous substances, pollutants or contaminants on, at or from the Facility.

XX. COVENANT NOT TO SUE BY DEFENDANT

20.1 Except as provided in Section XVI (Dispute Resolution), Defendant hereby covenants not to sue or to take any civil, judicial or administrative action against the State, its agencies, or their authorized representatives, for any claims or causes of action against the State that arise from this Decree, including, but not limited to, any direct or indirect claim for reimbursement from the Cleanup and Redevelopment Fund pursuant to Section 20119(5) of the NREPA or any other provision of law.

20.2 After the Effective Date of this Decree, if the Attorney General initiates any administrative or judicial proceeding for injunctive relief, recovery of response activity costs, or other appropriate relief relating to the Facility, Defendant agrees not to assert and shall not maintain any defenses or claims that are based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, or claim-splitting, or that are based upon a defense that contends any claims raised by the MDEQ or the Attorney General in such a proceeding were or should have been brought in this case; provided, however, that nothing in this Paragraph affects the enforceability of the covenants not to sue set forth in Section XVIII (Covenants Not to Sue by Plaintiff).

XXI. CONTRIBUTION PROTECTION

Pursuant to Section 20129(5) of the NREPA and Section 9613(f)(2) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC (CERCLA) and to the extent provided in Section XVIII (Covenants Not to Sue by Plaintiff), Defendant shall not be liable for claims for contribution for the matters set forth in Paragraph 18.1 of this Decree, to the extent allowable by law. Entry of this Decree does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA, or the CERCLA, 42 USC 9607 and 9613. Pursuant to Section 20129(9) of the NREPA, any action by Defendant for contribution from any person that is not a Party to this Decree shall be subordinate to the rights of the State of Michigan if the State files an action pursuant to the NREPA or other applicable federal or state law.

XXII. MODIFICATIONS

22.1 The Parties may only modify this Decree according to the terms of this Section. The modification of any Submission required by this Decree, excluding the MDEQ-approved RAP, may be made only upon written notification from the appropriate MDEQ Project Coordinator and Diamond Chrome. The MDEQ-approved RAP may only be modified by the RRD Division Chief or his or her authorized representative.

22.2 Modification of any other provision of this Decree shall be made only by written agreement between Defendant, the Director of the MDEQ, and the designated representative of the Michigan Department of Attorney General, and shall be entered with the Court.

XXIII. TERMINATION OF PARAGRAPHS 5.2-5.4

23.1 At any time after three years from the effective date of this Decree, and when Defendant determines that it has completed all of the activities required under Paragraphs 5.2-5.4 of this Decree, it may submit to the MDEQ, a notice of compliance and final report. The final report shall consist of a written certification that Defendant has fully complied with all of the requirements of Paragraphs 5.2-5.4 of this Decree. The certification shall include the date of compliance with each provision of Paragraphs 5.2-5.4, and any additional relevant information if requested by the MDEQ.

23.2 Upon receiving the notice of compliance, the MDEQ will review the notice, the final report, any supporting documentation, and the actual activities performed under Paragraphs 5.2-5.4 of this Decree. The MDEQ will issue a written certificate of compliance unless the MDEQ determines that the Defendant has either not submitted the certification required under

this Section, has failed to submit information specifically requested by the MDEQ, or has failed to comply with or complete all the requirements of Paragraphs 5.2-5.4 of this Decree.

23.3 Upon issuance of the MDEQ's certification of compliance, the Defendant's obligations under Paragraphs 5.2-5.4 of this Decree shall be terminated. With the exception of Paragraphs 5.2-5.4, all other requirements of this Decree shall remain in full force and effect.

XXIV. SEPARATE DOCUMENTS

This Decree may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Decree may be executed in duplicate original form.

IT IS SO AGREED AND ORDERED BY:

Saulius Mikalonis (39486)
Attorney for Defendant
Butzel Long, PC
100 Bloomfield Hills Pkwy Ste 200
Bloomfield Hills, MI 48304-2949
Phone: (248) 258-1303

MICHAEL A. COX
Attorney General
Attorney for Plaintiff

By:

Kathleen L. Cavanaugh (P38006)
Assistant Attorney General
525 W. Ottawa, 6th Floor, Williams Building
P.O. Box 30755
Lansing, MI 48909
Telephone: (517) 373-7540

Steven E. Chester
Director
Michigan Department of
Environmental Quality

IT IS SO ORDERED, ADJUDGED AND DECREED THIS 28 day of July, 2006.

Honorable James R. Giddings

S: NR/AC/cases/open/2002011839A/Diamond Chrome/consent decree 06-20-06

PROPERTY LEGAL DESCRIPTION

Parcel No. 1:

A part of Lots 270, 271 and the South 1/2 of Lots 269 and 272 of "Crane and Brooks Addition to the Village (now City) of Howell," as recorded in the Book of Transcribed Records on Pages 180 and 181 of the Livingston County Records, Livingston County, Michigan, more particularly described as follows: Commencing at the Southeast corner of Lot 266 of "Crane and Brooks Addition to the Village (now City) of Howell," as recorded in the Book of Transcribed Records on Pages 180 and 181 of the Livingston County Records; thence along the North line of Livingston Street, N 61°53'26" W, 134.76 feet to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the North line of Livingston Street, N 61°53'26" W, 136.62 feet; thence along the East line of Walnut Street, N 28°37'27" E, 198.92 feet; thence S 62°08'55" E, 135.06 feet; thence S 28°10'28" W, 199.52 feet to the POINT OF BEGINNING; Containing 0.62 acres, more or less, and subject to the rights of the public over the existing Livingston Street and Walnut Street. Subject to easements of record, if any.

Parcel No. 2:

A part of the Southwest 1/4 of Section 36, T3N-R4E, Howell Township, Livingston County, Michigan, more particularly described as follows: Commencing at the Southeast Corner of Lot 266 of "Crane and Brooks Addition to the Village (now City) of Howell," as recorded in the Book of Transcribed Records on Pages 180 and 181 of the Livingston County Records; thence along the West line of Michigan Avenue, S 28°03'00" W, 66.00 feet to the POINT OF BEGINNING of the Parcel to be described; thence continuing along the West line of said Michigan Avenue, S 28°01'28" W, 227.20 feet; thence N 62°40'10" W, 168.35 feet; thence N 65°52'34" W, 105.82 feet; thence along the East line of Walnut Street, N 28°28'36" E, 236.85 feet; thence along the South line of Livingston Street S 61°53'24" E, 272.04 feet to the POINT OF BEGINNING; Containing 1.44 acres, more or less, and subject to the rights of the public over the existing Livingston Street, Walnut Street and Michigan Avenue. Subject to easements of record, if any.

PROPERTY TAX I.D. NUMBER: 38-1438718

STATE OF MICHIGAN

JOHN ENGLER, Governor

DEPARTMENT OF NATURAL RESOURCES

Stevens T. Mason Building, P.O. Box 30028, Lansing, MI 48909

ROLAND HARMES, Director

October 1, 1992

Mr. John C. Beatty, III
Diamond Chrome Plating, Inc.
P. O. Box 557
Howell, MI 48844

Dear Mr. Beatty:

This letter is in reference to your Permit to Install application for replacing a scrubber with a new scrubber, for a chrome plating process, located at 604 South Michigan Avenue, Howell, Michigan. This application, identified as No. 367-83B, has been evaluated and approved by the Air Quality Division, pursuant to the delegation of authority from the Michigan Air Pollution Control Commission.

This approval is based upon and subject to compliance with all administrative rules of the Commission and conditions stipulated in the attached supplement. Please review these conditions thoroughly so that you may plan for and take the actions necessary to ensure compliance with all of these conditions. Also note that Condition No. 1 requires you to apply, in writing, for a permit to operate within 30 days after completion of construction.

You are advised that contaminants discharged to the surface waters and/or groundwaters; materials disposed of on land; hazardous waste storage, treatment, and disposal; and resource recovery facilities must be approved by other divisions of the Department of Natural Resources. Additionally, your plant environment must be in compliance with all applicable requirements of the Departments of Public Health and Labor.

Furthermore, Permit No. 367-83A has been voided because the equipment is now covered by the above permit.

Thank you for your cooperation. Please contact me if you have any questions regarding this permit.

Sincerely,

David A. Ferrier
Thermal Process Unit
Permit Section
Air Quality Division
517-373-2098

DAF:mm
Enclosure
cc: Mike Koryto

SUPPLEMENT TO PERMIT NO. 367-83B

Diamond Chrome Plating, Inc.
Howell, Michigan

September 21, 1992

GENERAL CONDITIONS

1. Rule 208(2) - Not more than 30 days after completion of the installation, Applicant shall apply, in writing, for a Permit to Operate. Completion of the installation is deemed to occur not later than commencement of a trial operation pursuant to Rule 201(4). Written application should be sent to: Chief, Permit Unit, Air Quality Division, Department of Natural Resources, P.O. Box 30028, Lansing, Michigan 48909.

2. Rule 201(4) - Trial operation of the equipment is permitted until the Michigan Air Pollution Control Commission acts upon the Permit to Operate. Operation of the equipment shall permanently cease upon denial of the Permit to Operate by the Commission.

3. Rule 208(3)(a) and (c) - Applicant shall demonstrate compliance with all Commission rules and with all general and special conditions of this permit prior to issuance of the Permit to Operate.

4. Rule 201 - Applicant shall not reconstruct, alter, modify, expand, or relocate this equipment unless plans, specifications, and an application for a Permit to Install are submitted to and approved by the Commission.

5. Rule 901 - Operation of this equipment shall not result in the emission of an air contaminant which causes injurious effects to human health or safety, animal life, plant life of significant value, or property, or which causes unreasonable interference with the comfortable enjoyment of life and property.

6. Rule 208(3)(b) - Operation of this equipment shall not interfere with the attainment or maintenance of the air quality standard for any air contaminant.

7. Operation of this equipment shall not result in significant deterioration of air quality.

8. Rule 912 - Applicant shall provide notification of any abnormal conditions or malfunction of process or control equipment covered by this application, resulting in emissions in violation of the Commission rules or of any permit conditions for more than two hours, to the District Supervisor. Such notice shall be made as soon as reasonably possible, but not later than 9:00 a.m. of the next working day. Applicant shall also, within 10 days, submit to the District Supervisor, a written detailed report, including probable causes, duration of violation, remedial action taken, and the steps which are being undertaken to prevent a reoccurrence.

9. Approval of this application does not exempt the Applicant from complying with any future regulations which may be promulgated under Act 348, P.A. 1965, as amended.

10. Approval of this permit does not obviate the necessity of obtaining such permits or approvals from other units of government as required by law.

11. Act No. 53 - Applicant shall notify any public utility of any excavation, tunneling and discharging of explosives or demolition of buildings which may affect said utility's facilities in accordance with Act 53 of the Public Acts of 1974, being sections 460.701 to 460.718 of the Michigan Compiled Laws and comply with each of the requirements of that Act.

12. The restrictions and conditions of this Permit to Install shall apply to any person or legal entity which now or shall hereafter own or operate the equipment for which this Permit to Install is issued. Any new owner or operator shall immediately notify the Chief of the Permit Unit, in writing, of such change in ownership or principal operator status of this equipment.

13. Rule 201(5) - If the installation, reconstruction, relocation, or alteration of the equipment for which this permit has been approved has not commenced within, or has been interrupted for, 18 months, this permit shall become void unless otherwise authorized by the Commission.

14. Rule 285 - Except as allowed by Rule 285 (a), (b), and (c), applicant shall not substitute any fuels, coatings, nor raw materials for those described in the application and allowed by this permit, nor make changes to the process or process equipment described in the application, without prior notification to and approval by the Air Quality Division.

SPECIAL CONDITIONS

15. The chromic acid emission from the chrome plating tanks shall not exceed 0.071 milligrams per cubic meter, corrected to 70°F and 29.92 inches Hg.

16. There shall be no visible emissions from the chrome plating operations.

17. Rules 1001, 1003 and 1004 - Verification of chromic emission rates from the chrome plating operations by testing, at owner's expense, in accordance with Commission requirements, may be required for operating approval. Verification of emission rates includes the submittal of a complete report of the test results. If a test is required, stack testing procedures and the location of stack testing ports must have prior approval by the District Supervisor, Air Quality Division, and results shall be submitted within 120 days of the written requirement for such verification.

18. Applicant shall not operate the chrome plating tanks unless the wet scrubbers are installed and operating properly.

DAF:mm

CPM-1

DEPARTMENT OF NATURAL RESOURCES
AIR QUALITY DIVISION
P.O. BOX 30028
LANSING, MICHIGAN 48909

STATE OF MICHIGAN

AIR USE PERMIT APPLICATION

APPLICATION NO. 367-83

FOR AUTHORITY TO INSTALL, CONSTRUCT, RECONSTRUCT, RELOCATE, OR ALTER, AND OPERATE PROCESS, FUEL-BURNING, OR REFUSE-BURNING EQUIPMENT AND/OR CONTROL EQUIPMENT (PERMITS TO INSTALL AND OPERATE ARE REQUIRED BY ADMINISTRATIVE RULES PURSUANT TO ACT 348, P.A. 1965, AS AMENDED).

AIR QUALITY DIVISION
JUL -9 1992
PERMIT SECTION

1. APPLICANT: Business License Name of Corporation, Partnership, Individual Owner, Government Agency
Diamond Chrome Plating, Inc.

2. MAILING ADDRESS: Number and Street; City or Village; State; Zip Code
P.O. Box 557, Howell, Michigan 48844

3. EQUIPMENT OR PROCESS LOCATION: Number and Street; City, Village or Township	COUNTY	ZIP CODE
604 S. Michigan Avenue, Howell, Michigan 48843	Livingston	48843

4. GENERAL NATURE OF BUSINESS:
Electroplating Job shop

5. EQUIPMENT OR PROCESS DESCRIPTION:
Request to replace one scrubber on permit No. 367-83A:
The Tri-mer Fan Seperator Model F/S 14 CCW S/N 2240 needs replacing. We have purchased a ceilcote scrubber Model HAW 50/60 S.O. 23360 capacity 53,000 CFM with ceilcote blower Model CLMR 54 S.O. 6664. We will operate the unit at 40,000 CFM, The same as with the Tri-mer. There will be no changes in the process served. The discharge from the scrubber will be vertical at the same location and height as the Tri-mer unit.
The ceilcote scrubber has 120 sq. ft. of tellerette packing 1.5 ft. deep. This is being followed by an additional Kimre B-Gon High efficiency mist eliminator section Type 37/94. We will utilize a periodic deionized water exit face rinse on the tellerette pack in addition to the normal irrigation. We expect the overall efficiency to exceed 99.7%, down to .5 micron. Various duct sections and fittings are being manufactured now. We will plan a changeover time which will best fit our customers schedules. We estimate this to be early September, 1992.

Note: The viron VHS 7696 scrubber also on permit 367-83A will continue to operate with no changes.

6. ESTIMATED COST:
Air Pollution Control Equipment $22,000 ; Total Project $ 29,000

7. ACTION AND TIMING:	ESTIMATED STARTING DATE	ESTIMATED COMPLETION DATE
[X] Installation, construction, reconstruction, or alteration	June, 1992	Sept., 1992
[ ] Relocation		
[ ] Change of Ownership		

8. NAME OF PRIOR OWNER AS IN ITEM 1 ABOVE, AND PRIOR AIR USE PERMIT NUMBER, IF ANY:
NAME N/A PERMIT NO.

9. NAME AND TITLE OF OWNER OR AUTHORIZED MEMBER OF FIRM
Name John C. Beatty, III Signature John C Beatty III
Title: General Manager Date: July 7, 1992 Phone No. (517) 546-0150

10 CONTACT PERSON IF DIFFERENT THAN ITEM 9:
Name Phone No. ( )

11. DISPOSITION OF APPLICATION: FOR DNR USE ONLY

Receipt of all information required by Rule 203	7-9-92	
Permit to install approved * on	9-21-92	Signature Robert Miller
Permit to operate approved * on		Signature
Application/permit voided on		Signature
Application/permit denied on		Signature

*Subject to compliance with all Commission Rules and Conditions stipulated in the attached supplement.

STATE OF MICHIGAN

JOHN ENGLER, Governor

DEPARTMENT OF ENVIRONMENTAL QUALITY

HOLLISTER BUILDING, PO BOX 30473, LANSING MI 48909-7973

RUSSELL J. HARDING, Director

REPLY TO:

AIR QUALITY DIVISION
PO BOX 30260
LANSING MI 48909-7760

March 15, 1996

Mr. John C. Beatty III
General Manager
Diamond Chrome Plating, Inc.
604 S. Michigan Avenue
Howell, MI 48843

Dear Mr. Beatty:

This letter is in reference to your Permit to Install application for a hard chrome plating operation with nine tanks and wet scrubber control located at 604 S. Michigan Ave., Howell, Michigan. This application, identified as No. 386-85A, has been evaluated and approved by the Air Quality Division, pursuant to the delegation of authority from the Michigan Department of Environmental Quality.

This approval is based upon and subject to compliance with all administrative rules of the Department and conditions stipulated in the attached supplement. **Please review these conditions thoroughly so that you may take the actions necessary to ensure compliance with all of these conditions.**

You are advised that contaminants discharged to the surface waters and/or groundwaters; materials disposed of on land; hazardous waste storage, treatment, and disposal; and resource recovery facilities must be approved by other divisions of the Department of Environmental Quality. Additionally, your plant environment must be in compliance with all applicable requirements of the Departments of Public Health and Labor.

Also, Permit to Install No. 386-85 has been voided because the equipment is now covered by Permit to Install No. 386-85A.

Please contact me if you have any questions regarding this permit.

Sincerely,

Gregory M. Edwards

Gregory M. Edwards, Supervisor
Chemical Process Unit
Permit Section
Air Quality Division
517-335-3693

GME:sv
Enclosure
cc: Michael Koryto, District Supervisor

EQP 0100-25e
(10/95)

SUPPLEMENT TO PERMIT NO. 386-85A

Diamond Chrome Plating, Inc.
Howell, Michigan

March 11, 1996

GENERAL CONDITIONS

1. Rule 201(1) - The process or process equipment covered by this permit shall not be reconstructed, relocated, altered, or modified, unless a Permit to Install authorizing such action is issued by the Department, except to the extent such action is exempt from the Permit to Install requirements by any applicable rule.

2. Rule 201(4) - If the installation, reconstruction, relocation, or alteration of the equipment for which this permit has been approved has not commenced within 18 months, or has been interrupted for 18 months, this permit shall become void unless otherwise authorized by the Department. Furthermore, the person to whom this permit was issued, or the designated authorized agent, shall notify the Department via the Supervisor, Permit Section, Air Quality Division, Michigan Department of Environmental Quality, P.O. Box 30260, Lansing, Michigan 48909, if it is decided not to pursue the installation, reconstruction, relocation, or alteration of the equipment allowed by this Permit to Install.

3. Rule 201(6)(a) - If this Permit to Install is issued for a process or process equipment located at a stationary source which is subject to a Renewable Operating Permit pursuant to Rule 210, trial operation is allowed if the equipment performs in accordance with the terms and conditions of this Permit to Install and until the appropriate terms and conditions of this Permit to Install have been incorporated into the Renewable Operating Permit as a modification pursuant to Rule 216 or upon renewal pursuant to Rule 217. Upon incorporation of the appropriate terms and conditions into the Renewable Operating Permit, this Permit to Install shall become void.

4. Rules 201(6)(b)(i) or 216(1)(a)(v)(A) - Except as provided in General Condition No. 3, operation of the process or process equipment is allowed if, not more than 30 days after completion of the installation, construction, reconstruction, relocation, alteration, or modification authorized by this Permit to Install, the person to whom this Permit to Install was issued, or the authorized agent pursuant to Rule 204, notifies the District Supervisor, Air Quality Division, in writing, of the completion of the activity. Completion of the installation, construction, reconstruction, relocation, alteration, or modification is considered to occur not later than commencement of trial operation of the process or process equipment.

5. Rule 201(6)(b)(ii) - Except as provided in General Condition No. 3, not more than 18 months after completion of the installation, construction, reconstruction, relocation, alteration, or modification authorized by this Permit to Install, the person to whom this permit was issued, or the authorized agent pursuant to Rule 204, shall notify the District Supervisor, Air Quality Division, in writing, of the status of compliance of the process or process equipment with the terms and conditions of the Permit to Install. The notification shall include all of the following:

   A. The results of all testing, monitoring, and recordkeeping performed to determine the actual emissions from the process or process equipment and to demonstrate compliance with the terms and conditions of the Permit to Install.

B. A schedule of compliance for the process or process equipment as described in Rule 119(a).

C. A statement, signed by the person owning or operating the process or process equipment, that, based on information and belief formed after reasonable inquiry, the statements and information in the notification are true, accurate, and complete.

6. Rule 201(7) and Section 5510 of Act 451, P.A. 1994 - The Department may, after notice and opportunity for a hearing, revoke this Permit to Install if evidence indicates the process or process equipment is not performing in accordance with the terms and conditions of this permit or is violating the Departments' rules or the Clean Air Act.

7. Rule 219 - A new owner or operator of the process or process equipment covered by this Permit to Install shall immediately make a written request to the Department for a change of ownership or operational control. The request shall include all of the information required in Rule 219(1)(a), (b) and (c). If the request for a change in ownership or operational control is approved, the terms and conditions of this Permit to Install shall apply to the person or legal entity which hereafter owns or operates the process or process equipment for which this Permit to Install is issued. The written request shall be sent to the Supervisor, Permit Section, Air Quality Division, Michigan Department of Environmental Quality, P.O. Box 30260, Lansing, Michigan 48909.

8. Rule 901 - Operation of this equipment shall not result in the emission of an air contaminant which causes injurious effects to human health or safety, animal life, plant life of significant economic value, or property, or which causes unreasonable interference with the comfortable enjoyment of life and property.

9. Rule 912 - The owner or operator of a source, process, or process equipment shall provide notice of an abnormal condition, start-up, shutdown, or malfunction that results in emissions of a hazardous or toxic air pollutant in excess of standards for more than one hour, or of any air contaminant in excess of standards for more than two hours, as required in this rule, to the District Supervisor, Air Quality Division. The notice shall be provided not later than two business days after start-up, shutdown, or discovery of the abnormal condition or malfunction. Written reports, if required, must be filed with the District Supervisor within 10 days, with the information required in this rule.

10. Approval of this permit does not exempt the person to whom this permit was issued from complying with any future regulations which may be promulgated under Part 55 of Act 451, P.A. 1994.

11. Approval of this permit does not obviate the necessity of obtaining such permits or approvals from other units of government as required by law.

12. Operation of this equipment may be subject to other requirements of Part 55 of Act 451, P.A. 1994; and the rules promulgated thereunder.

SPECIAL CONDITIONS

13. The total chromium emission rate from the hard chrome plating operation shall not exceed 0.016 pounds per hour nor 0.06 tons per year.

14. Visible emissions from the hard chrome plating operation shall not exceed 0% opacity.

15. Applicant shall not operate the hard chrome plating operation unless the scrubbers are installed and operating properly.

16. Applicant shall equip and maintain each scrubber with a liquid flow indicator as approved by the District Supervisor.

17. Rules 1001, 1003 and 1004 - Verification of total chromium emission rates from the hard chrome plating operation by testing, at owner's expense, in accordance with Department requirements, may be required for operating approval. Verification of emission rates includes the submittal of a complete report of the test results. If a test is required, stack testing procedures and the location of stack testing ports must have prior approval by the District Supervisor, Air Quality Division, and results shall be submitted within 120 days of the written requirement for such verification.

18. The exhaust gases from the hard chrome plating operation shall be discharged unobstructed vertically upwards to the ambient air from stacks with an exit point not less than 24 feet above ground level.

GME:sv

CO Y

DNR

Michigan Department of Natural Resources, Air Quality Division

AIR USE PERMIT APPLICATION

FOR DNR USE ONLY
APPLICATION NUMBER
386-85A

FOR AUTHORITY TO INSTALL, CONSTRUCT, RECONSTRUCT, RELOCATE OR ALTER AND OPERATE PROCESS, FUEL-BURNING OR REFUSE-BURNING EQUIPMENT AND/OR CONTROL EQUIPMENT (PERMITS TO INSTALL AND OPERATE ARE REQUIRED BY ADMINISTRATIVE RULES PURSUANT TO ACT 348, P.A. 1965, AS AMENDED).

Please type or print clearly. For further instructions, see the reverse side of this form, or contact the Air Quality Division. (517) 373-7023

AIR QUALITY DIVISION

JAN 18 1996

PERMIT SECTION

1. APPLICANT NAME: (Business License Name of Corporation, Partnership, Individual Owner, Government Agency)
DIAMOND CHROME PLATING, INC.

2. APPLICANT ADDRESS: (Number and Street)
604 S. MICHIGAN AVENUE, P.O. BOX 557

CITY: (City or Village)
HOWELL,

STATE: MI

ZIP CODE: 48843

3. EQUIPMENT OR PROCESS LOCATION: (Number and Street)
604 S. MICHIGAN AVENUE

COUNTY: LIVINGSTON

CITY: (City or Village)
HOWELL

ZIP CODE: 48843

4. GENERAL NATURE OF BUSINESS:
JOB SHOP ELECTROPLATING SERVICE

5. EQUIPMENT OR PROCESS DESCRIPTION: (Attach additional sheets, if necessary. Include Source Classification Codes (SCC)).
THIS IS TO REQUEST REVISION OF PERMIT 386-85 TO CORRECT THE NUMBER OF TANKS SERVICED BY THE PERMIT. THE PRESENT NUMBER OF TANKS IS NINE (9) WITH LESS TOTAL SURFACE AREA THAN THOSE REFERENCED IN PERMIT 103-75 (VOID)

6. FACILITY CODES:
Standard Industrial Classification (SIC) Code: 3 4 7 1
State Registration (Emission Inventory) No.:

7. ACTION AND TIMING: (Enter dates for those which apply)	ESTIMATED STARTING DATE	ESTIMATED COMPLETION DATE
Installation, construction, reconstruction or alteration:		JULY, 1985
Relocation:		
Change of Ownership:		

8. NAME OF PRIOR OWNER, IF ANY:	PRIOR AIR USE PERMIT NUMBER, IF ANY

9. OWNER/AUTHORIZED FIRM MEMBER CERTIFICATION:

PRINTED OR TYPED NAME:	TITLE:	PHONE NUMBER: (Include Area Code)
JOHN C. BEATTY, III	GENERAL MANAGER	(517) 546-0150

SIGNATURE: John C Beatty III

DATE: 1/16/96

10. CONTACT PERSON NAME: (If different than name in item 9)

PHONE NUMBER: (Include Area Code)

FOR DNR USE ONLY. DO NOT WRITE BELOW.

11. DISPOSITION OF APPLICATION:

Date of receipt of all information required by Rule 203:	1-18-96	
Date permit to install approved:*	3-11-96	Signature: Dennis A. Armbruster
Date permit to operate approved:*		Signature:
Date application/permit voided:		Signature:
Date application/permit denied:		Signature:

*Subject to compliance with all Commission Rules and Conditions stipulated in the attached supplement.